

OFFICIAL REPORT OF PROCEEDINGS

Wednesday, 15 May 1991

The Council met at half-past Two o'clock

PRESENT

HIS HONOUR THE DEPUTY TO THE GOVERNOR (PRESIDENT)

THE CHIEF SECRETARY

THE HONOURABLE SIR DAVID ROBERT FORD, K.B.E., L.V.O., J.P.

THE FINANCIAL SECRETARY

THE HONOURABLE SIR PIERS JACOBS, K.B.E., J.P.

THE ATTORNEY GENERAL

THE HONOURABLE JEREMY FELL MATHEWS, C.M.G., J.P.

THE HONOURABLE ALLEN LEE PENG-FEI, C.B.E., J.P.

THE HONOURABLE STEPHEN CHEONG KAM-CHUEN, C.B.E., J.P.

THE HONOURABLE CHEUNG YAN-LUNG, C.B.E., J.P.

THE HONOURABLE MRS SELINA CHOW LIANG SHUK-YEE, O.B.E., J.P.

THE HONOURABLE MARIA TAM WAI-CHU, C.B.E., J.P.

THE HONOURABLE CHAN YING-LUN, O.B.E., J.P.

THE HONOURABLE MRS RITA FAN HSU LAI-TAI, O.B.E., J.P.

THE HONOURABLE PETER POON WING-CHEUNG, O.B.E., J.P.

THE HONOURABLE CHENG HON-KWAN, O.B.E., J.P.

THE HONOURABLE CHUNG PUI-LAM, J.P.

THE HONOURABLE HO SAI-CHU, O.B.E., J.P.

THE HONOURABLE HUI YIN-FAT, O.B.E., J.P.

THE HONOURABLE MARTIN LEE CHU-MING, Q.C., J.P.

THE HONOURABLE NGAI SHIU-KIT, O.B.E., J.P.

THE HONOURABLE PANG CHUN-HOI, M.B.E.

THE HONOURABLE POON CHI-FAI, J.P.

THE HONOURABLE SZETO WAH

THE HONOURABLE TAI CHIN-WAH, J.P.

THE HONOURABLE TAM YIU-CHUNG

DR THE HONOURABLE DANIEL TSE, C.B.E., J.P.

THE HONOURABLE ANDREW WONG WANG-FAT, J.P.

THE HONOURABLE LAU WONG-FAT, O.B.E., J.P.

THE HONOURABLE MICHAEL LEUNG MAN-KIN, J.P.

SECRETARY FOR TRANSPORT

THE HONOURABLE EDWARD HO SING-TIN, J.P.

THE HONOURABLE RONALD JOSEPH ARCULLI, J.P.

THE HONOURABLE MARTIN GILBERT BARROW, O.B.E.

THE HONOURABLE PAUL CHENG MING-FUN

THE HONOURABLE MICHAEL CHENG TAK-KIN, J.P.

THE HONOURABLE DAVID CHEUNG CHI-KONG, J.P.

THE HONOURABLE RONALD CHOW MEI-TAK

THE HONOURABLE MRS NELLIE FONG WONG KUT-MAN, J.P.

THE HONOURABLE MRS PEGGY LAM, M.B.E., J.P.

THE HONOURABLE DANIEL LAM WAI-KEUNG, J.P.

THE HONOURABLE MRS MIRIAM LAU KIN-YEE

THE HONOURABLE LAU WAH-SUM, O.B.E., J.P.

DR THE HONOURABLE LEONG CHE-HUNG

THE HONOURABLE LEUNG WAI-TUNG, J.P.

THE HONOURABLE JAMES DAVID McGREGOR, O.B.E., I.S.O., J.P.

THE HONOURABLE KINGSLEY SIT HO-YIN

THE HONOURABLE MRS SO CHAU YIM-PING, J.P.

THE HONOURABLE JAMES TIEN PEI-CHUN, J.P.

THE HONOURABLE MRS ELSIE TU, C.B.E.

THE HONOURABLE MRS ANSON CHAN, J.P.

SECRETARY FOR ECONOMIC SERVICES

THE HONOURABLE PETER TSAO KWANG-YUNG, C.B.E., C.P.M., J.P.

SECRETARY FOR HOME AFFAIRS

THE HONOURABLE MRS ELIZABETH WONG CHIEN CHI-LIEN, I.S.O., J.P.  
SECRETARY FOR HEALTH AND WELFARE

THE HONOURABLE ALISTAIR PETER ASPREY, O.B.E., A.E., J.P.  
SECRETARY FOR SECURITY

THE HONOURABLE MARTIN JOHN LEWIS, J.P.  
SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS

THE HONOURABLE CHRISTINE CHOW KWAN-TAI, J.P.  
SECRETARY FOR EDUCATION AND MANPOWER

ABSENT

DR THE HONOURABLE HENRIETTA IP MAN-HING, O.B.E., J.P.  
THE HONOURABLE DAVID LI KWOK-PO, O.B.E., J.P.

PROF. THE HONOURABLE POON CHUNG-KWONG, J.P.

THE HONOURABLE MRS ROSANNA TAM WONG YICK-MING, O.B.E., J.P.

THE HONOURABLE PETER WONG HONG-YUEN, J.P.

IN ATTENDANCE

THE CLERK TO THE LEGISLATIVE COUNCIL  
MR LAW KAM-SANG

Papers

The following papers were laid on the table pursuant to Standing Order 14(2):

Subject

Subsidiary Legislation L.N. No.

Commissioner for Administrative Complaints Ordinance Commissioner for Administrative Complaints Ordinance (Amendment of Schedule 1)	Order	
1991.....		181/91
Telecommunication Ordinance Telecommunication (Amendment) Regulations 1991.....		182/91
Registration of Persons Ordinance (Application for New Identity Cards)	Registration of Persons (No. 7) Order	
1991.....		183/91
Prevention of Bribery Ordinance (Amendment of Schedule)	Prevention of Bribery Ordinance Order 1991.....	
184/91		
Immigration Ordinance (Open Centre) (Amendment) (No. 2) Rules	Immigration (Vietnamese Refugee Centres)	
1991.....		185/91
Public Health and Municipal Services Ordinance Gardens of Remembrance By-Laws 1991.....	Cremation and (Regional Council) (Amendment)	
186/91		

Public Health and Municipal Services Ordinance (Regional Council)	Exhumation (Fees)
Bylaws	
1991.....	187/91

Public Health and Municipal Services Ordinance Cemeteries (Regional Council)	Public
(Amendment) By-Laws 1991.....	
188/91	

Sessional Paper 1990-91

No. 71 -- Revisions of 1990-91 Estimates approved by Urban Council during the fourth quarter of the 1990-91 Financial Year

Oral answers to questions

Port and Airport Development Strategy

1. MR SIT asked (in Cantonese): Will the Government inform this Council :

(a) whether the brief information paper titled "Progress on the New Airport and related Key Projects" submitted to this Council on 24 April 1991 is the kind of progress report mentioned in the PADS motion passed by this Council on 21 November 1990;

(b) the total sum of money spent up-to-date in relation to the projects listed in the said information paper and also a breakdown of each and every item in relation thereto?

FINANCIAL SECRETARY: Sir, the short paper tabled in this Council on 24 April was prepared in response to a question raised by Mr PANG Chun-hoi. It was not intended to replace a more detailed progress report which the Administration promised to make available to this Council at least twice a year. That report will be submitted to

Members as soon as possible.

As to part (b) of the question, the total amount of money spent on the new airport and its related key projects up to 31 March 1991 since the announcement of the decision to build the airport in October 1989 is \$619.6 million. A detailed breakdown is tabled for Members' reference.

New airport and related projects expenditure as at 31 March 1991

Cumulative  
expenditure  
(\$ million)

Chek Lap Kok Airport	108.0(1)
Tung Chung Development (Phase One)	15.4
North Lantau Expressway	26.3
Lantau Fixed Crossing	102.1
Route 3 (Tsing Yi and Kwai Chung Sectors)	107.2
West Kowloon Reclamation	60.2
West Kowloon Expressway	9.0
Western Harbour Crossing	16.8

Cumulative  
expenditure  
(\$ million)

Airport Railway	20.0
Central and Wanchai Reclamation	7.5
Others: New airport works project	48.0
management phase I	
Land acquisition	99.1

Total           619.6

Notes: (1) This figure includes expenditure by the Provisional Airport Authority on the Airport Master Plan and Advance Works contract.

MR SIT (in Cantonese): In relation to these expenditures, will Government inform this Council of the approximate proportion of projects which are tendered for or carried out by local companies?

FINANCIAL SECRETARY: Sir, I do not have that information available. I will endeavour to ascertain details and give Mr Kingsley SIT an answer in writing. (Annex I)

MR SIT (in Cantonese): Sir, will Government inform this Council if it has assessed the extent to which these projects will affect local inflation upon implementation?

FINANCIAL SECRETARY: Sir, the projects will be carried out over quite a prolonged period of time and it is difficult to give an exact and reliable assessment of the impact on inflation. Also, of course, much depends on how the money is spent; it may well be spent on equipment and services acquired from outside the territory and in those circumstances the impact on inflation may be negligible.

Vietnamese boat people

2. MRS FAN asked: In view of the worrying trend of increasing arrivals of Vietnamese boat people in 1991, can the Government inform this Council of:

(a) the maximum capacity of the existing detention centres and the number of extra arrivals they can accommodate before new centres have to be established;

(b) the plans that are under consideration to contain the number of Vietnamese boat people in Hong Kong; and

(c) the responsibility of the British Government towards Hong Kong regarding this problem?

SECRETARY FOR SECURITY: Our existing detention centres should be able to cope with a Vietnamese population of approximately 54 000. The present population in the detention centres is about 48 000. The extent to which our detention centre



accommodation can cope with new arrivals depends however not only on the number of arrivals but also on the numbers of births, of those screened in and those leaving on repatriation.

We believe that the Comprehensive Plan of Action (CPA) remains the right approach to solve the problem. It is the failure to implement the CPA in its entirety which has so far prevented a resolution of the problem. We shall continue to pursue urgently a durable solution in the form of agreement on arrangements for repatriation of the screened-out.

The British Government fully supports the Hong Kong Government's efforts to resolve this difficult problem through the full implementation of the CPA. The British Government intends to consult urgently with the principal countries concerned on additional measures to accelerate the return of non-refugees to their country of origin.

MRS FAN: Sir, the Secretary for Security informs us that the British Government fully supports the Hong Kong Government in its efforts. I respectfully submit that he did not answer part (c) of my question. Therefore I wish to repeat it again and request an answer. The question is: What is the responsibility of the British Government towards Hong Kong regarding this problem?

SECRETARY FOR SECURITY: Sir, I think I did answer that part of the question. I would, however, like to make clear that Hong Kong's policy on the Vietnamese boat people has been made by the Hong Kong Government. It has the full support of the United Kingdom Government which is determined to do its best towards a resolution of this problem.

MR BARROW: Sir, with regard to the third paragraph of the answer, could the Secretary clarify what pressure the Hong Kong and British Governments are placing on the United States Government to normalize their relations with Vietnam which should provide the catalyst for dealing with the root cause of the problem?

SECRETARY FOR SECURITY: Sir, I think that is a question of foreign policy of the

United Kingdom Government which is quite outside my purview. But clearly, in discussions with the United States we have made it very clear that a resolution to this problem must include improvement of economic conditions in Vietnam and that normalization of relations between the United States and Vietnam is a very important part of that.

MR MICHAEL CHENG (in Cantonese): In view that the Administration treats Vietnamese boat people very humanely, so much so that it gives the impression of treating them better than it does the people of Hong Kong, and may even encourage the influx of Vietnamese boat people into Hong Kong, will the Government review the current policy by adopting "immediate repatriation" so that both the Vietnamese boat people and Chinese illegal immigrants are given the same treatment?

SECRETARY FOR SECURITY: Sir, we have willingly entered into the arrangements enshrined in the CPA which requires us to do certain things towards the treatment of the Vietnamese boat people. We intend to stick by those obligations.

MRS TU: Sir, in the first paragraph of the reply the Secretary said that our ability to cope depends upon not only the number of people coming here but also the number of births, the number who are being resettled, and the number who are leaving on repatriation. Could the Secretary give us the numbers on those? How many births, say, in the past two years; how many are awaiting resettlement in other countries; and how many have been repatriated?

SECRETARY FOR SECURITY: I do not have precise figures on the number of births in the last two years. Last year it was approximately 2 300; this year so far it has been 630. The number of those who have been repatriated since we started the repatriation programme in 1989 is just short of 7 000. When I referred, in my main answer, to the numbers being screened in, I meant the number of people who move from the category of asylum seeker to the category of refugee. Since we started screening I believe that approximately 5 000 persons have been screened in out of a total number of over 23 000 persons who have been screened.

MR DAVID CHEUNG: Sir, in the second paragraph of his main answer, the Secretary mentioned that the CPA remains the right approach. Since this is the right approach,

will the Secretary inform this Council of the factors hampering its successful implementation, and whether the Secretary is optimistic that in the near future the CPA could be successfully implemented?

SECRETARY FOR SECURITY: Sir, as I mentioned, I think, in my main answer, the factor which has prevented the CPA being an effective durable solution to this problem is simply the failure to implement it in full, and this means the failure to introduce arrangements for the speedy repatriation of all those screened out.

As to successful implementation, I would not express myself as being either optimistic or pessimistic. What I would say is that we are intending to have consultations with the main parties involved -- and particularly I refer to consultations between the British and Hong Kong Governments and the United States Government -- to see if we can find a way of making the CPA work in full, and we expect that those consultations will start in the next few weeks.

MR TAI: Sir, may I ask the Administration what factors are involved leading to the failure to implement the CPA in its entirety and who is to blame, either partly and wholly, for its failure? Is the Administration involved in such blameworthiness?

SECRETARY FOR SECURITY: Sir, no, we are not involved in apportioning blame for it. But I think the fact is well known that in successive meetings there have been two countries that have blocked the implementation of full-scale repatriation of the screened out and those countries are the United States and Vietnam.

MR CHEONG: Sir, the Secretary, in reply to the Honourable Rita FAN's question, said that the Hong Kong Government alone makes the policy on Vietnamese refugees. Can the Secretary now confirm that in future we do not need to refer any policy changes back to the United Kingdom Government, especially if it involves international negotiations?

SECRETARY FOR SECURITY: Sir, no, I do not think I said that the Hong Kong Government alone makes policy on Vietnamese boat people. But I did say that the present policy

was one decided upon by the Hong Kong Government. Clearly, we have consulted and will continue to consult the United Kingdom Government in seeking to resolve this problem.

MR BARROW: Sir, could the Secretary advise how many social workers or counsellors are employed by the UNHCR to persuade boat people to return to Vietnam, and does he consider the existing number to be adequate?

SECRETARY FOR SECURITY: Sir, I do not have the precise figure with me. Perhaps I could give a written reply on the exact number. (Annex II) I would say, though, that this is an area where no matter how many counsellors there are, it will never be sufficient. Clearly we would like to see more counselling and more resources devoted to getting people to volunteer to return to Vietnam. I would say though, in defence of the UNHCR, that they clearly have problems with the funding of their programmes in Hong Kong. This is not something which is entirely within their control; they do not have a printing press to produce the money they need to spend. They have to seek it from donations from member countries and those donations have never been sufficient to support their programmes in Hong Kong.

MR EDWARD HO: Sir, with respect, I do not think the Secretary for Security has answered the Honourable Rita FAN's original question and her follow-up question which is: Whether there is any responsibility on the part of the British Government towards Hong Kong regarding the Vietnamese boat people problem? I would appreciate a yes or no answer. If it is yes, what then is the responsibility, and is the Secretary satisfied that the British Government has satisfactorily discharged that responsibility?

SECRETARY FOR SECURITY: Sir, clearly, the United Kingdom Government has a responsibility towards Hong Kong in resolving this problem, as it does for other matters relating to Hong Kong's administration. Yes, I believe that the United Kingdom Government has done all it can to try to seek a resolution to this problem. Unfortunately, those efforts have not yet borne fruit.

MR MCGREGOR: Sir, will the Secretary confirm that the Government has no intention

at present of changing the port of first asylum policy in order to reduce the number of Vietnamese landing here?

SECRETARY FOR SECURITY: Sir, as I said in the main answer and in answer to several supplementaries, we do believe that the CPA remains the best available framework for resolving this problem and we would wish to maintain our obligations under the CPA for as long as we were able to do so. Those obligations include offering first asylum. But I would also say that clearly we cannot continue to bear all the burden of the CPA indefinitely without the benefits and there will come a time where we cannot continue to support the CPA if it is not implemented in full.

Increase of peak hour surcharge by the MTRC

3. MRS CHOW asked: In view of the likelihood of an increase in the surcharge for peak hour passengers on the Kowloon Peninsula route of the MTR, if the volume exceeds 75 000/hour, can Government inform this Council what measures are being taken by Government to ensure the provision of alternative and cheaper modes of transport along that route so as to avoid the introduction of the surcharge?

SECRETARY FOR TRANSPORT: Sir, alternative public transport services already available include some 90 bus, green minibus and residential coach routes serving the Mong Kok and Yau-Tsim districts. In addition, there are the KCR services to Hung Hom, nine ferry links to Central and 18 cross-harbour bus routes operating through the Kowloon Peninsula. Spare capacity exists on most of these services during the rush hours.

There is an on-going plan to help relieve pressure on the MTR Nathan Road corridor. As part of the plan, the following additional measures will be taken in the next few months:

(a) the introduction of two air-conditioned express bus routes between Kowloon and Central. The first route, which started operation on 13 May, is targetted at commuters who may otherwise enter the MTR system via the Prince Edward and Mong Kok Stations. The second route, to be introduced in mid-June, provides a direct link from the podium level of the KCR Hung Hom Station to Central. This is intended to encourage Central-bound KCR passengers not to switch to the MTR at Kowloon Tong;

(b) passengers taking south-bound journeys on the two new bus services during the morning peak will enjoy a fare discount. Similar discounts also apply to two existing cross-harbour bus services running along Nathan Road; and

(c) concurrently, traffic management measures to speed up the movement of buses heading towards the Cross Harbour Tunnel along Nathan Road or Chatham Road are in hand. These include an extra bus lane on Chatham Road North and adjustments to traffic signals in favour of traffic approaching the Cross Harbour Tunnel from Nathan Road.

The effectiveness of all these measures will be monitored closely and further measures introduced as necessary.

MRS CHOW: Sir, is there any understanding reached between the Government and the MTRC as to how long a period will be allowed to elapse before any conclusion is drawn as to whether the ongoing plan and the additional measures described are effective, so that no increase of the surcharge will be imposed before these measures are given a chance to work?

SECRETARY FOR TRANSPORT: Sir, these plans, of course, are intended to meet the coming peak demand in the summer months from July to September. We do have close discussions with the MTRC on these plans and we hope that these plans will help to relieve the pressure on the MTR system so as to divert some passengers away from the peak hour congestion during the next few months. We will, of course, monitor this closely to ensure there is close co-ordination before the MTRC takes a decision on increasing that surcharge.

MRS LAU: Sir, can the Secretary inform this Council what the Administration intends to do to ensure that any increase in the surcharge will be amply justified?

SECRETARY FOR TRANSPORT: Sir, we are talking about a further increase of 50 cents on the peak hour surcharge. Clearly, the MTRC Board has taken full note of the views expressed recently on the further increase and has been very responsive to those views. They will, of course, be very careful in assessing, firstly, the effects of these

extra services vis-a-vis the public transport needs in the morning peak, and secondly, on the extent to which the MTRC is seen to be responsive to public views. I am sure the Board will take this into account fully.

MRS CHOW: Sir, what steps is Government taking to ensure that the Government-appointed members on the MTRC Board are effectively representing public interest and public opinion even if such interest and opinion may not coincide with the commercial priorities of the Corporation?

SECRETARY FOR TRANSPORT: Sir, appointment of Board members, of course, is a matter for the Governor to decide. As regards the responsibility of Board members, they must take the legal obligations of the Board fully into account, as required under the Mass Transit Railway Corporation Ordinance, that is to say, to run a safe, efficient, reliable and economic rail service in the public interests. I am sure Board members will, of course, bear this in mind when taking any decision on rail fares or on any other matters within their responsibility.

Rating and valuation of public and private housing units

4. MR SZETO asked (in Cantonese): Will Government inform this Council whether the rateable values of public housing units, Home Ownership flats and private premises are assessed on different principles and standards and, if so, what are these principles and standards?

FINANCIAL SECRETARY: Sir, under the Rating Ordinance the Commissioner of Rating and Valuation is required to ascertain the rateable value of a tenement. In discharging this responsibility, the Commissioner and his staff apply the same principles and standards to all residential premises that are assessed to rates, including public housing units, Home Ownership flats and private premises.

MR SZETO (in Cantonese): The owner of public housing units is the Government. As for the HOS flats, they are subject to restrictions in that owners are not allowed to let or, within a certain period of time, sell their flats. Moreover, the owner, even

if allowed to sell his flat, has to pay to the Government a certain amount of money. Those conditions, however, do not apply to owners of private properties. Would it not be fair that the same criteria be used in assessing the rateable values of public and private housing units?

FINANCIAL SECRETARY: Sir, perhaps I could best answer that question by explaining a little of the philosophy underlying the Rating Ordinance. The purpose of the legislation is to ensure that occupiers of properties -- that is, every person who has the actual use and benefit of a property -- make a proportionately equal contribution to the overall tax burden in accordance with the open market rental value of the property occupied. For example, the Rating Ordinance sets out to ensure that an occupier who pays an artificially low rent, for whatever reason, will not be given a further advantage of paying low rates assessed by reference to the actual rent; for if this cannot be ensured, it would be unfair to the ratepaying community generally. Thus the Ordinance seeks to ensure that although an occupier may be fortunate enough to be paying a low rent, he will nevertheless be required to pay his fair share of rates in accordance with the open market rental value of the property occupied.

The point is, Sir, that the rateable value of a property is not directly related to the rent actually being paid or indeed to any other restrictions that apply to the property. The rateable value of a property is based on the open market value of that property. This is a long-standing principle of rating law. It is a fair principle. It has been tested in the courts, and I do not see any need to change it.

MISS LEUNG: Sir, will the Secretary inform this Council why small houses in the New Territories are exempted from rates, and if consideration will be given to reviewing this policy with a view to abolishing this special advantage enjoyed by the occupants of such premises?

FINANCIAL SECRETARY: Sir, there are long-standing historical reasons for certain properties being exempt from rates. The intention is ultimately to bring all property within the rating network.



MR POON CHI-FAI (in Cantonese): Sir, it is the Government's care for the lower and middle income groups that public housing is provided to those poor people who are qualified for it. But since rental increases for public housing units are based mainly on the rates assessed by the Rating and Valuation Department, the present criteria of assessment would be most unfair to public housing tenants, in particular those who live near housing developments of higher rateable values. Could the Administration inform this Council whether any review or amendment would be made to the assessment criteria?

FINANCIAL SECRETARY: Sir, as far as rented public housing is concerned, Members will be aware that the tenants do not pay the rates directly. The rates are assessed on the Housing Authority. The rents charged by the Housing Authority are inclusive of rates and, of course, are adjusted from time to time. They are not adjusted immediately when there is some increase in rates. Overall, I think it is correct to say that public housing tenants are not burdened unduly with rates; in fact, as I think I said in my Budget speech, the average increase in rates of public housing units was only about \$19 per month as a result of the Budget.

MR TAI: Sir, could the Financial Secretary enlighten me on a point of valuation, and this is: how can one value a tenement on open market value when there is restriction on alienation or leasing out?

FINANCIAL SECRETARY: As I attempted to explain, Sir, when I was giving that dissertation on the philosophy underlying the Rating Ordinance, it is a principle of rating law to take into account the open market value without any account being taken of any restrictions that apply to a particular property. The reason for that is because rates are in the nature of a tax. Again, as I said earlier in answer to an earlier supplementary, this principle has been tested in the courts.

MR SZETO (in Cantonese): Sir, will the Government inform this Council whether the hefty increase in rates, particularly in the case of public housing units and HOS flats, would fuel inflation and in the end affect the quality of living of the lower income groups?

FINANCIAL SECRETARY: Sir, it would have only a very marginal effect on the cost of living. As far as fuelling inflation is concerned, I think it could be argued that a tax takes spending power out of the hands of the community and therefore is deflationary.

#### Cross Harbour Tunnel passage tax

5. MR TIEN asked: Will the Government inform this Council whether consideration will be given to increasing the passage tax on the use of the Cross Harbour Tunnel so as to restore the real cost to the 1984 level and to reduce congestion in the tunnel?

SECRETARY FOR TRANSPORT: Sir, on 28 February 1991, the Transport Advisory Committee endorsed a package of recommendations aimed at relieving traffic congestion at the Cross Harbour Tunnel. The package included a proposal to introduce higher toll rates during peak congestion hours, by substantially raising the passage tax. The level of tax proposed more than exceeds the present day value of the passage tax introduced in 1984.

The Administration is now examining the technical and administrative details of this recommendation before a decision could be taken on whether and when it should be taken forward. At the same time, we will be monitoring closely the effects of the opening of the Tate's Cairn Tunnel on 1 July, which should encourage greater use of the Eastern Harbour Crossing, thus reducing significantly congestion at the Cross Harbour Tunnel.

MR TIEN: Sir, will the Government please inform this Council whether it has any idea how many man hours are wasted annually by people trapped in traffic jams at the Cross Harbour Tunnel and the financial implications to Hong Kong due to these man hour losses? If not, will a survey be conducted to identify these losses?

SECRETARY FOR TRANSPORT: Sir, we have not done a proper survey on the loss of man hours. It is perhaps impossible to calculate the number of man hours lost. We do have a rough idea of the operating costs of vehicles involved in the queue and that

could amount to several hundred millions of dollars a year.

MRS FAN: Sir, the proposed passage tax increase is mainly to try to reduce the number of cars using the Cross Harbour Tunnel and instead to encourage them to use the other tunnel. Many drivers have complained about the bottleneck coming out from the other tunnel which starts at Causeway Bay, and also the confusion of traffic signs on the Kowloon side of the Eastern Harbour Crossing. Can the Government inform this Council what measures have been taken or will be taken to remedy this bottleneck and confusion?

SECRETARY FOR TRANSPORT: Sir, on 14 March 1990, I think I answered the question on the Eastern Harbour Crossing usage covering the provision of signs and road widening schemes. I would refer Mrs FAN to the Hansard of those particular discussions.

But I may perhaps update Members on the present situation. We have increased further the number of signs to and from the Eastern Harbour Crossing since then. We have also added an extra lane along Causeway Bay near the Exelsior Hotel to provide better access. We will also be reconstructing the Causeway Bay flyover to provide another link between Causeway Bay and Wan Chai. And we hope these measures will help to relieve that bottleneck which Mrs FAN refers to.

MR DAVID CHEUNG: Sir, will the Secretary confirm that the raising of the passage tax of the Cross Harbour Tunnel will not take effect until at least a period of time after the opening of the Tate's Cairn Tunnel during which the flow of traffic at the present Cross Harbour Tunnel can be assessed?

SECRETARY FOR TRANSPORT: Yes, Sir, this in fact is implied in the second paragraph of my main reply; that is to say we would wish to see the effects of the opening of the Tate's Cairn Tunnel in about a month or so before we take further measures.

MRS LAU: Sir, can the Secretary inform this Council to what extent the passage tax introduced in 1984 relieved the then traffic congestion at the Cross Harbour Tunnel, and how long that relief was sustained before traffic volume again exceeded the capacity of that tunnel?

SECRETARY FOR TRANSPORT: At that time the effects of deflating demand lasted for about three years after the introduction of the tax. Thereafter demand has been ever on the increase. Clearly, these measures are not lasting but they do have an immediate effect.

MR EDWARD HO: Sir, can the Secretary advise what the projected reduction of traffic through the Cross Harbour Tunnel will be after the opening of the Tate's Cairn Tunnel?

SECRETARY FOR TRANSPORT: Sir, the Tate's Cairn Tunnel and the Eastern Harbour Crossing will take away probably about four to six thousand vehicles, as at present forecast. But I wish it could perhaps be better than that in our actual exercise.

MR TIEN: Sir, between 1984 and today KMB has increased their fares by 160% and CMB has increased theirs by 200%. These public bus services are widely used by people of the lower income groups. Using these figures as reference points, will the Administration please inform this Council why the Cross Harbour Tunnel toll or tax is not increased by similar proportions since most people using the tunnel are from affluent, upper to middle income groups who will have less difficulty in shouldering these increases?

SECRETARY FOR TRANSPORT: Sir, the simple answer is that the passage tax was imposed not on revenue grounds but on transport grounds and therefore the question of restoration of real costs does not arise.

MR MCGREGOR: Sir, could the Secretary say what the actual cost would be should this proposal be accepted? In other words, what would the additional cost be on the basis of the present considerations to reach the real cost at this point in time?

SECRETARY FOR TRANSPORT: If tolls were raised by about 200%, that would be a rise from \$5 to \$15. It would bring immediate relief to the Cross Harbour Tunnel. This should of course be compared with the operating costs of vehicles lost because of the congestion, which I said earlier on amount to several hundred million dollars

a year.

#### Squatters on dangerous slopes

6. MR POON CHI-FAI asked (in Cantonese): Will Government inform this Council:

(1) of the number of residents still living on dangerous slopes or in premises classified as Category I, II or III buildings by the Buildings Ordinance Office;

(2) of the locations of these slopes and problem buildings and their risk levels;

(3) whether any contingency measures or evacuation plans have been drawn up by the Administration and whether any guidance has been provided to residents concerned to avoid hazards or to deal with emergency situation; and

(4) whether squatter huts such as those on the four different slopes at Nam Tin, Sau Mau Ping, Shun Lee and Yau Tong are safe and if not, the preventive measures that should be taken by the squatters there?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, I will first deal with slopes, then buildings.

There are about 4 000 squatters in East and West Kowloon and North and South of Hong Kong Island who live on steep slopes that are especially vulnerable to landslips in heavy rainstorms. Government aims to clear and rehouse all these 4 000 by around the end of 1991. In addition there are about 1 100 squatters scattered throughout the New Territories living on these steep and vulnerable slopes. Most live on private agricultural land, which is only cleared when the land is needed.

These steep slopes that house squatters are particularly vulnerable in heavy rain, because instability (and therefore the risk) is often aggravated by indiscriminate slope-cutting and by the lack of adequate drainage. In addition, the flimsiness of the dwellings and their poor foundation works do not afford good protection.

A Landslip Warning System provides squatters with adequate warning of the probable occurrence of landslips on steep hillsides. Where necessary, people are

urged through radio announcements to take refuge in temporary shelters provided by the district offices. Squatters are immediately evacuated when there is reason to believe they face imminent danger.

With regard to the four squatter areas mentioned, nearly all squatters have been removed from the worst slopes. Hardly any remain in Lam Tin and Yau Tong, and the remainder will be cleared this summer. There have also been partial clearances in the Shun Lee and Sau Mau Ping areas, and more are expected next year. As long as they live on these slopes, all squatters should follow the guidance notes provided by the district offices on the precautionary measures they should take before and during rainstorms, such as maintenance of slopes; diversion of water; and action to be taken during rainstorms and when the Landslip Warning is issued.

Regarding buildings, there are 210 in Category I -- those buildings seen externally to be in a dangerous condition, requiring early action. All have been inspected, and repair orders have been served on the owners of 193 buildings. The remaining 17 buildings have been served with orders for demolition. There are some 16 700 buildings in Category II -- those buildings adjudged to be in a suspect condition, requiring a detailed survey. Some 2 590 have been inspected, and repair orders served on the owners of 1 381 buildings. A further 46 buildings have been served closure orders for demolition. Category III buildings do not pose a problem at present. They are considered to be in a reasonable condition and unlikely to require any major action within five years. Almost all these buildings are generally located in the older parts of the urban area, such as To Kwa Wan, Mong Kok, Sham Shui Po, Kowloon City, Sheung Wan, Sai Ying Pun and Wan Chai.

The Buildings Ordinance Office has a 24 hour stand-by system to deal with emergencies in private buildings throughout the territory. The system is aimed at removing danger to residents or the general public either by urgent on-site corrective treatment or by evacuating the residents of the buildings on a temporary or permanent basis.

MR POON CHI-FAI (in Cantonese): Sir, residents were injured when a categorized problem building in Bonham Strand West suddenly collapsed a few months ago. While fully aware that the building was dangerous, why did the Government not alert the residents to take precautions, or make an order to have the building demolished at an early date so that such unfortunate incident would not have happened? What would the Government

do to prevent similar incident from recurring?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, this is all part of the process and this is why we are doing this huge scheme. It is going to take some years to do and we will be doing pre-war buildings first. But currently the Buildings Ordinance Office is conducting full surveys on all pre-war private sector buildings, and at the end of April they have inspected nearly 1 552 buildings. We are reasonably confident that we are doing a good job on the pre-war buildings and that our actions will considerably reduce the chance of a major mishap for pre-war buildings. We are ploughing on with Category II buildings. So this is the way that we are going to tackle it to reduce the risk.

MRS TU: Sir, I believe that squatters may report at any time, not necessarily during rainstorms, if they suspect that the slopes on which they are living are dangerous. Could the Secretary tell us whether the public are kept informed as to where to make such reports, and whether inspections are promptly carried out when such reports are made?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Yes, Sir, the inspections are carried out and have been for many years. The place to report initially, I would suggest, is the district office. But this has been going on for many, many years, especially in Kwun Tong, and we have always taken this problem very, very seriously. We carried out a study in 1984 which revealed that there were 57 000 squatters living on such slopes, and up till now we have cleared 53 000 of them which leaves these 4 000 as I mentioned in my reply, whom we are going to move this year. So hopefully, the kind of situation that is being described will not happen. And I would add, Sir, that we have spent almost \$865 million on these slope stabilization works and we are continuing at a rate of about \$70 million per year. In addition to that another \$40 million was spent on maintenance, and another \$182 million on 118 different squatter improvement projects. All that covers about 600 slopes. So I am hoping that that sort of situation will not arise very much in the future.

MR POON CHI-FAI (in Cantonese): Although slope improvement projects were carried out by the Government in the past few years, landslips still occurred on steep slopes in the squatter areas, endangering the safety of the residents. An example was the

Ma Wan Tsuen incident which occurred on 4 April at Kwun Tong. Would the Administration give due regard to the value of human life and release information on all dangerous slopes and dangerous squatter areas so that people living on these slopes can take precautionary measures at an early date; and that they can in the event of bad weather take refuge at their friends' home or other safer places earlier and hence do not have to spend their days in constant fear?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Yes, Sir, we are very conscious of any incident or injury and even one casualty is bad -- though we have only had two deaths in the last five years. We continue to be vigilant, especially in the squatter areas around Kwun Tong. But these areas are almost totally unrecognizable now; there is hardly anything in the Ko Chiu Road area; there are a few squatter huts behind the housing estate at the end of the road and they will be cleared this year. The squatter area of Cheung Lung Tin just does not exist anymore. It is all highrise buildings there, and so is the Lam Tin area which is all built up now. So it is really only that slope where you go up from behind Block 44 of Sau Mau Ping Estate where there are two villages and another one further along that we have got to worry about. Now some will be cleared. There have in fact been two small fires in one of those villages in the valley down below, and so we are going to be clearing those and they will be all gone. Whether they are on dangerous slopes or just slopes that are not particularly vulnerable, they will be gone in a few years -- just like Lam Tin and Cheung Lung Tin have gone.

Conversion arrangements for civil servants joining quasi-government bodies

7. MR CHOW asked: Government has announced that officers who elect to relinquish their civil servant status to join the Vocational Training Council will be given a sign-up bonus equivalent to three months' substantive salary. Will the Administration inform this Council whether the same arrangement will be made available to civil servants who opt to join the Hospital Authority?

SECRETARY FOR HEALTH AND WELFARE: No, Sir. The same arrangement will not be made available to civil servants who opt to join the Hospital Authority. Furthermore, it would not be appropriate to compare the two packages because the circumstances of the two exercises are distinctly different: the backgrounds are different, the



policy objectives are different, the transfer arrangements are different and the terms and conditions which the two organizations offer to staff are also different.

MR CHOW: Sir, based on what criteria does the Administration use three months' substantive salary as a sign-up bonus to compensate the civil servants' loss due to the conversion arrangement?

SECRETARY FOR HEALTH AND WELFARE: I do not think I can answer for the Vocational Training Council, Sir.

MR CHOW: Sir, up to now the civil servants of the medical and health service still complain that they receive no information about the conversion arrangement terms. What ways and what terms will be used by the Administration to encourage -- but not force -- more civil servants to give up their civil service status to join the Hospital Authority?

SECRETARY FOR HEALTH AND WELFARE: There are two parts to this question, Sir. First of all let me answer the first part regarding the method of joining the Hospital Authority. I think taking into account all relevant considerations the broad details of the package for staff transferring to the Hospital Authority were the subject of announcement last year. The decision whether or not to opt for the Hospital Authority terms will naturally be taken by each individual officer having regard to his or her own individual circumstances. No one, but no one, will be forced to transfer. Regarding the question on the timetable as implied by my honourable friend, Mr CHOW, I think Members will recall that at one of the OMELCO Health Panel meetings I did say that on 6 April, which was last month, the refined package for implementation was received from the Hospital Authority. Now having regard to the commonality of goal and the mutuality of interest, the object of the exercise is to arrive at an answer as quickly as we can, but the object also is to get it right.

MR TAM (in Cantonese): Sir, will a bonus of three months' substantive salary be given to the staff of the RTHK to make up for their having to give up their civil servant status as a result of a change in the nature of the station?

SECRETARY FOR HEALTH AND WELFARE: The three months' bonus, as implied in the question, was, I understand, the terms for the Vocational Training Council staff. It is not a matter for me to answer on their behalf. I have dealt with the main question which is on staff in terms of service for the Hospital Authority.

Medical services for Vietnamese boat people

8. DR LEONG asked: In view of the need to provide hospital services to Vietnamese boat people (VBP), will the Administration inform this Council :

(a) of the extent to which hospital services, particularly the labour wards, in the New Territories East region have been affected;

(b) of the strains on the hospital staff caused as a result;

(c) of the cost of such medical facilities and how much of it is recoverable from the UNHCR?

SECRETARY FOR HEALTH AND WELFARE: Sir, Vietnamese migrants occupied 30 925 bed-days, or 5.8% of the available bed-days in the two hospitals (viz Prince of Wales Hospital and Fanling Hospital) in the New Territories East region last year. They also accounted for 3.8% of the total attendances at the Accident and Emergency departments in these hospitals.

Prince of Wales Hospital is the only hospital in the New Territories East region which provides an obstetric service. In 1990, 1 720 VBP babies were born there. This represents some 20.8% of the total number of deliveries in the hospital, or 14% of the available bed-days in its Obstetrics and Gynaecology department.

Notwithstanding the use of some of these facilities, the provision of hospital services in general to the local public has not been seriously affected. The demand for services has been met by flexible re-deployment of resources and re-distribution of caseloads within our hospital system.

However, the provision of medical services to Vietnamese migrants has

unquestionably generated additional pressure on the available medical and nursing manpower. Here, my colleagues in the hospitals should be commended for their dedication and perseverance in maintaining a high standard of service to meet community needs. Where practicable, additional manpower has been provided to alleviate their workload and we are exploring further measures for relief.

As regards the cost of providing medical services to the Vietnamese migrants, Government spent approximately \$123 million in 1990-91. This includes the operating costs of hospital beds occupied by them, the treatment offered and the various immunization and clinic services provided. Five million dollars of such costs is recoverable from UNHCR.

DR LEONG: Sir, the Secretary's main reply mentioned that there was an alarming number of something like 1 800 childbirths from Vietnamese boat women at the Prince of Wales Hospital. This constitutes some 20% of extra strain on the staff there. As we all know that childbirth or delivery is a special situation which cannot be coped with by redistribution of caseloads within the hospital, could the Administration inform this Council of the existing facilities in the Obstetrics Ward, in particular the number of labour-beds and medical and nursing staff, and whether these include a special increase, taking into consideration the provision of services for the Vietnamese boat people?

SECRETARY FOR HEALTH AND WELFARE: I think the question is in fact answered by Dr LEONG himself. As regards the birthrate in maternity wards of the Obstetrics department, I do not think anybody, even with the wisdom of hindsight and basing on the trend of the birthrate, has the ability through looking at the crystal ball, as it were, to gauge the sexual habits of the Vietnamese boat people and tell with certainty the birthrate of babies. So I am afraid, Sir, I cannot answer the question.

MR MCGREGOR: Sir, what family planning schemes are being promoted by the Administration among the Vietnamese boat people to decrease the number of pregnancies and how effective are these schemes in the Vietnamese boat people camps? Is the live birthrate in these camps any higher than that of Hong Kong as a whole?

SECRETARY FOR HEALTH AND WELFARE: I do not have precise answers to those very important and interesting questions but I will endeavour to give a reply.

MRS FAN: Sir, the Secretary said that out of approximately \$123 million to provide medical services for Vietnamese boat people, \$5 million is recoverable from UNHCR. Can she tell us what that \$5 million includes, that is to say what kind of charges it covers?

SECRETARY FOR HEALTH AND WELFARE: Yes, Sir, I think in pursuance of the statement of understanding between the Government and the UNHCR, the UNHCR is responsible for providing medical services to Vietnamese boat people in refugee centres, whereas Government is responsible for such provision in detention centres. For the use of public hospital facilities referred to in my main reply, the UNHCR is responsible for reimbursing to Government charges at the public rate for the use of these facilities.

DR LEONG: Sir, with respect, I do not think the Secretary has answered my supplementary question but perhaps I will make it simpler, and that is: Will the Administration provide more facilities in relation to staff and also labour-bed numbers, for example, taking into consideration the fact that there will be an increasing strain on the labour-beds in the Obstetrics Unit of the Prince of Wales Hospital because we cannot foresee a decrease of Vietnamese boat people coming to Hong Kong?

SECRETARY FOR HEALTH AND WELFARE: Sir, I think I did answer the question but I will supplement my answer to Dr LEONG's supplementary question. We look at the relief of staffing resources in several ways. As an immediate relief at source the Hospital Services Department has already redeployed staff to the Prince of Wales Hospital where the workload from Vietnamese migrants is heaviest. It has also redirected some Vietnamese patients to other hospitals' maternity wards so as to spread the workload if appropriate. But to really tackle the problem, it is necessary to increase the supply of medical personnel in Vietnamese refugee and detention centres, and in this context I must add that we have been exploring with the Medical Council for some time now appropriate measures to enable certain qualified overseas doctors to practise in these centres.

Our original proposal was for exempting from local registration those overseas doctors who come to work in the centres. However, this proposal was rejected by the Medical Council; we respect the Medical Council's views. In deference to the Medical Council we are now processing the proposal for limited registration and are in discussion with the Medical Council on the details of implementation. I hope, Sir, my answer is not too long for Dr LEONG's question.

MR MCGREGOR: Sir, would the Government not consider that the time has really come for the extensive use of qualified foreign doctors in the camps and on a permanent basis? Would the Secretary agree that that would be cheaper, more effective and more efficient than the present system now being employed?

SECRETARY FOR HEALTH AND WELFARE: I think it would be very wrong to use money as a gauge for efficiency, but I think it would be correct to say that having more medical personnel helping around would be decidedly more efficient.

DR LEONG: Sir, with respect again, I think there is a lot of confusion here. The Secretary's answer to my question just now relates to doctors within Vietnamese refugee camps. My question relates to facilities within the Prince of Wales Hospital. Would the Secretary inform this Council whether there will be increased facilities provided to the Obstetrics Unit or the Gynaecological Unit of the Prince of Wales Hospital considering the fact that there will be an unforeseeable increase in the number of deliveries by Vietnamese boat women in that particular hospital?

SECRETARY FOR HEALTH AND WELFARE: I think, Sir, in the Hong Kong system of allocation of funds, we provide funds for facilities based on foreseeable estimates. So for the requirement of facilities which is not foreseen, it is not possible for us to provide them on an imagined basis.

Written answers to questions

High pricing policy in selling or letting carparking spaces

MR POON CHI-FAI asked: In view of the concern of many members of the public over the incident in Beacon Heights where the developer has been adopting a high pricing policy in the sale and letting of car parking spaces and the anxieties that similar incidents may occur in other large private residential developments such as Taikoo Shing and Lei King Wan in the eastern part of Hong Kong Island, will Government inform this Council what measures are available to prevent developers from adopting unfair policies in selling or letting their carparks at high prices?

SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS: Sir, the selling and letting of carparking spaces in private residential developments is a matter for the developer. As long as the developer does not do anything which is unlawful, Government has little cause to intervene.

However, since October 1987 Government has imposed guidelines on new Deeds of Mutual Covenants (DMC) limiting the initial period of management by the first manager to not exceeding two years. No provision in the DMC is now permitted which would exclude the operation of Multi-storey Buildings (Owners Incorporation) Ordinance to prevent owners forming an owners corporation, as is currently the case with the DMC of Beacon Heights. A draft Bill is also under consideration to impose similar limitations on the conduct of property managers in existing DMCs which do not specifically contain the provisions of the current guidelines.

Offenders rehabilitation scheme

10. MRS FAN asked: In November 1989, the OMELCO Standing Panel on Security was consulted on the review of the rehabilitation scheme under the Rehabilitation of Offenders Ordinance (Chapter 297). Will the Government inform this Council of the latest position regarding this review and when the outcome will be available?

SECRETARY FOR SECURITY: Sir, since the OMELCO Standing Panel on Security was consulted in November 1989, the Fight Crime Committee (FCC) has met a number of times to review the rehabilitation scheme under the Rehabilitation of Offenders Ordinance. In September last year, the FCC completed the review and agreed on a package of recommendations.

The main recommendations, briefly, are:

(a) the scheme should be extended to cover persons who on first conviction were sentenced to imprisonment for not more than three months, or a fine not exceeding \$10,000;

(b) payments under the fixed penalty scheme, other minor road traffic offences, and non-recordable offences should not be classified as convictions for the purpose of the scheme;

(c) persons convicted of triad-related offences, but who have renounced their membership under the triad renunciation scheme, should qualify for the protection of the rehabilitation scheme provided they meet the other criteria for the scheme; and

(d) exclusion from the scheme should be extended to applications to become substantial shareholders or controllers of financial institutions and to staff of the ICAC and the executive directors and executive staff of the Securities and Futures Commission.

Draft legislation to give effect to these recommendations is now being prepared. It is expected that the legislation will be introduced into the Legislative Council before the end of this year.

Motions

PENSIONS (INCREASE) ORDINANCE

THE FINANCIAL SECRETARY moved the following motion:

"That with effect from 1 April 1991 Schedule 2 to the Pensions (Increase) Ordinance be amended --

(a) in Part I by adding at the end --

"24. The adjusted pension under paragraph 23 may be further increased by

10.43%.;

(b) in Part II by adding at the end --

"23. The adjusted pension under paragraph 22 may be further increased by 10.43%.;

(c) in Part III by adding at the end --

"23. The adjusted pension under paragraph 22 may be further increased by 10.43%.;

(d) in Part IV by adding at the end --

"22. The adjusted pension under paragraph 21 may be further increased by 10.43%.;

(e) in Part V by adding at the end --

"21. The adjusted pension under paragraph 20 may be further increased by 10.43%.;

(f) in Part VI by adding at the end --

"20. The adjusted pension under paragraph 19 may be further increased by 10.43%.;

(g) in Part VII by adding at the end --

"19. The adjusted pension under paragraph 18 may be further increased by 10.43%.;

(h) in Part VIII by adding at the end --

"18. The adjusted pension under paragraph 17 may be further increased by 10.43%.;

(i) in Part IX by adding at the end --



"16. The adjusted pension under paragraph 15 may be further increased by 10.43%.;

(j) in Part X by adding at the end --

"15. The adjusted pension under paragraph 14 may be further increased by 10.43%.;

(k) in Part XI by adding at the end --

"14. The adjusted pension under paragraph 13 may be further increased by 10.43%.;

(l) in Part XII by adding at the end --

"13. The adjusted pension under paragraph 12 may be further increased by 10.43%.;

(m) in Part XIII by adding at the end --

"12. The adjusted pension under paragraph 11 may be further increased by 10.43%.;

(n) in Part XIV by adding at the end --

"11. The adjusted pension under paragraph 10 may be further increased by 10.43%.;

(o) in Part XV by adding at the end --

"10. The adjusted pension under paragraph 9 may be further increased by 10.43%.;

(p) in Part XVI by adding at the end --

"9. The adjusted pension under paragraph 8 may be further increased by 10.43%.;

(q) in Part XVII by adding at the end --

"8. The adjusted pension under paragraph 7 may be further increased by 10.43%.;

(r) in Part XVIII by adding at the end --

"7. The adjusted pension under paragraph 6 may be further increased by 10.43%.;

(s) in Part XIX by adding at the end --

"6. The adjusted pension under paragraph 5 may be further increased by 10.43%.;

(t) in Part XX by adding at the end --

"5. The adjusted pension under paragraph 4 may be further increased by 10.43%.;

(u) in Part XXI by adding at the end --

"4. The adjusted pension under paragraph 3 may be further increased by 10.43%.;

(v) in Part XXII by adding at the end --

"3. The adjusted pension under paragraph 2 may be further increased by 10.43%.;

(w) in Part XXIII by adding at the end --

"2. The adjusted pension under paragraph 1 may be further increased by 10.43%.;

(x) by adding after Part XXIII --

"PART XXIV

Applicable to a basic pension based on a salary in force from  
to 31 March 1991 inclusive

1 April 1990

1. The basic pension may be increased by 10.43%."."

He said: Sir, I move the first motion standing in my name on the Order Paper.

The Government's declared policy is to maintain the original purchasing power of civil service pensions, including pensions payable under the Widows and Orphans Pension Scheme and under the Widows' and Children's Pensions Scheme. This is achieved by periodic pension adjustments in line with movements in the Consumer Price Index (A).

During the latest review period from 1 April 1990 to 31 March 1991, the moving annual average of the Consumer Price Index (A) rose by 13.8 points which is equivalent to 10.43%.

It is proposed that a pension increase of 10.43% be awarded with effect from 1 April 1991. The total cost of increasing all pensions by this percentage is estimated to be \$135.3 million for a full year.

This is a statutory charge which may be authorized by Resolution of this Council under the appropriate Ordinances.

Sir, I beg to move.

At this point the following Members declared interest:

Mr CHENG Hon-kwan as government pensioner;

Mr LAU Wah-sum as civil service pensioner;

Mr MCGREGOR as civil service pensioner.

Question on the motion proposed, put and agreed to.

WIDOWS AND ORPHANS PENSION (INCREASE) ORDINANCE

THE FINANCIAL SECRETARY moved the following motion:

"That the Schedule to the Widows and Orphans Pension (Increase) Ordinance be amended by adding at the end --

"50. The pension calculated on the total contributions up to 31 March 1990 inclusive plus the total increases in pension up to 31 March 1991 may be increased by 10.43% with effect from 1 April 1991.

51. The pension calculated on contributions from 1 April 1990 to 31 March 1991 inclusive may be increased by 10.43% with effect from 1 April 1991."."

He said: Sir, I move the second motion standing in my name on the Order Paper.

My explanation on the previous motion which applies to the Pensions (Increase) Ordinance applies equally to this motion.

Sir, I beg to move.

At this point the following Members declared interest:

Mr CHENG Hon-kwan as government pensioner having joined the Widows and Orphans Pension Scheme;

Mr LAU Wah-sum as civil service pensioner having joined the Widows and Orphans Pension Scheme;

Mr McGREGOR as civil service pensioner having joined the Widows and Orphans Pension Scheme;

Question on the motion proposed, put and agreed to.

AIR PASSENGER DEPARTURE TAX ORDINANCE

THE FINANCIAL SECRETARY moved the following motion:

"That the Air Passenger Departure Tax Ordinance be amended as follows --

- (a) in paragraph 1 of the First Schedule by repealing "\$100" and substituting "\$150";
- (b) by repealing paragraphs 2 and 3 of the First Schedule; and
- (c) by adding the following paragraph after paragraph 10 of the Second Schedule --

"11. Passengers under 12 years of age." "

He said: Sir, I move the third motion standing in my name on the Order Paper. This and the following two motions seek to implement revenue proposals in the 1991 Budget.

The purpose of this motion is to increase the Air Passenger Departure Tax for an adult from \$100 to \$150, and exempt children under 12 years of age from paying the tax. The additional revenue is estimated to be approximately \$390 million per annum. There are no staffing implications.

Sir, I beg to move.

Question on the motion proposed.

MR LAU WAH-SUM (in Cantonese): Sir, today's discussion focuses on the taxation proposals of the Budget 1991. The motion on the Air Passenger Departure Tax Ordinance which has just been moved by the Financial Secretary is the first of his three motions on taxation. In addition to these three motions, we also have for discussion five Bills which are related to taxation.

The public is very much concerned about the taxation proposals of the Financial Secretary, because they think that the proposals not only fail to contain inflation, but quite the contrary stimulate it, making the livelihood of the people harder still. In view of this, an ad hoc group was set up to examine the motions and Bills. As the convenor of the group, I would like to take this opportunity to report to the Council our work and our opinions on the motions and Bills as a whole.

Three meetings were held in the past. We met the government officials concerned in order to know more about the motions and the Bills. We also expressed our worries

over the effects of these taxation proposals on inflation and the industries concerned. The public discontent with the immense increases in tobacco tax and the transfer of vehicle ownership fee was also reflected.

Sir, on examining the proposals, we took into consideration the interests of the public as well as the need of the Administration to secure adequate tax income to cover the expenditure. After detailed discussion, the group accepted the proposals in principle. However, members of the group hold different views on the rates of increases. I believe they will tell us later in today's debate what they think about the issues.

The group has conveyed the following views to the government officials concerned:

#### Air Passenger Departure Tax

Although the increase in Air Passenger Departure Tax is only aimed at bringing its real value back to the level of 1985, the revised tax is much higher than the same tax charged in our neighbouring countries. We are concerned about the adverse effects of this increase on the tourist industry.

It is found that the amounts of taxes charged on people leaving Hong Kong by different ways vary a lot -- travelling by air costs you HK\$150 Air Passenger Departure Tax; by sea costs you only HK\$21 Passenger Embarkation Fee; and you do not have to pay at all if you leave Hong Kong by train or by motor vehicle. Though members of the group hold different views on whether people leaving Hong Kong for China by train or by motor vehicle should be taxed, the group suggests the current seemingly unfair practice be examined and reviewed.

#### Tobacco tax

Although the group is not against the increase in tobacco tax on medical grounds, members unanimously think that an increase of 200% is a drastic one, resulting in soaring inflation and more rampant activities of smuggling cigarettes into Hong Kong. The living standard of the people is lowered. When it comes to tax increase, the Government should bear in mind the interests of the public so as to avoid social unrest.

In his Budget speech, the Financial Secretary expected that the increase in

tobacco tax would bring about an extra income of \$1.9 billion. The group has reservations on this. In our calculation, assuming the consumer resistance rate to be 40%, the Government can only get an extra income of \$1.3 billion. What is more, the sales of cigarettes will drop because the increase in tobacco tax encourages smuggling activities and an influx of tax-free cigarettes. The drop in sales means the Government getting less from tobacco tax. If no effective measures are introduced, the Government will simply fail to get what it has expected.

#### Rating Ordinance

The group is also concerned about the expenditures of the Urban and Regional Councils. Although the councils are two financially independent organizations empowered to set their own priorities in fund allocation and have been very careful in spending money, the ad hoc group would still like to urge them to tighten their control over their spending. By so doing, the rates to be allocated to the two councils can be cut. In other words, the public can pay less rates.

#### Transfer of vehicle ownership fee

The increase in the transfer of vehicle ownership fee is huge this time since the tax element is included into the fee for the first time. Though we have different views on the rates of increase, we urge the Administration to take into consideration the effects on the public and the industries concerned before introducing any new taxable items. The Administration is also urged to give detailed explanations.

Sir, everyone hates to see any increase in tax, but the harsh reality is that we must make both ends meet. With these remarks, I support the motion.

HIS HONOUR THE PRESIDENT: May I remind Members that they should be addressing in their speeches the subject of the motion which is before this Council and not range quite so widely over the Budget as did Mr LAU.

MR HUI (in Cantonese): Sir, I have no objection in principle to the Government's levying the air passenger departure tax (commonly known as airport tax), partly because this tax conforms with the general principle of taxation which requires those who can afford to pay more, and partly because the Government has indeed put in a

great deal of resources, on Kai Tak Airport expansion plan and on improving the services available. Nevertheless, I have some reservations about the 50% increase in airport tax because while there is little Hong Kong can offer to overseas visitors as a tourist attraction, the territory's reputation as a "shopper's paradise" has in recent years been eclipsed under the threat of inflation. The new tax will make Kai Tak the most expensive airport to travel in Southeast Asia. My worry is that when these two factors work together, they will pose a psychological obstacle to tourists. It would then be extremely difficult to lure them back in the future. Should that be the case, the loss may probably outweigh the gain as far as the Government is concerned.

On the other hand, the tourism industry is Hong Kong's third largest earner of foreign exchange and according to the Hong Kong Annual Report 1991, Hong Kong's tourism industry earned a total of \$40,000 million last year. If a 15% profits tax is payable to the Government, the estimated revenue from this source will be \$6,400 million. Meanwhile, the Financial Secretary's proposals on the new airport tax are expected to result in an additional revenue of only \$390 million. If the new tax should result in a 5% decrease in the number of visitors to Hong Kong, the Treasury's loss of revenue as a result of the industry's reduced earnings will just cancel out the estimated additional yield from this source. Therefore, I cannot agree with the Financial Secretary as it is very short-sighted of him to increase this tax. In my opinion, if there must be an increase in airport tax, it should not exceed 20%.

FINANCIAL SECRETARY: Sir, I am grateful to Mr LAU Wah-sum and Mr HUI Yin-fat for taking an interest in this particular measure. As you have directed, Sir, I shall speak only on the Air Passenger Departure Tax and not on the other revenue measures. From looking at the Order Paper, it seems that we will have ample opportunity to discuss some of those measures later on.

As I explained when I amended the Air Passenger Departure Tax in my Budget speech and also in my concluding speech, I was merely restoring this tax to the level in real terms at which it had been in 1985 when it was put up to \$120. We have observed the effect on tourism. Frankly it has no effect on tourists. They have continued to come to Hong Kong in encouraging numbers.

Mr HUI has commented that the Air Passenger Departure Tax in Hong Kong is the highest in the region. But I would ask Members not only to look at one tax. I think



direct taxes in Hong Kong are probably the lowest in the region. Also, tourists coming to Hong Kong often do not pay taxes that are levied elsewhere, for example, taxes on meals in restaurants and so on. Hotel taxes elsewhere are often higher. That is also true of other fees and charges elsewhere which tourists have to pay. Sometimes, dare I say, they also have to pay a sales tax. But one has to look at the total tax position before one compares one tax with another elsewhere.

I believe, as Mr LAU Wah-sum said, we have to raise revenue to cover the expenditure that was proposed in this Budget. One looks around for different sources. It seems to me that this is a perfectly equitable and fair tax. I tried to soften the burden on families, as Members will recollect.

Sir, I stand by my proposal.

Question on the motion put and agreed to.

#### DUTIABLE COMMODITIES ORDINANCE

THE FINANCIAL SECRETARY moved the following motion:

"That the Schedule to the Dutiable Commodities Ordinance be amended as follows -  
-

(a) in paragraph 1 of Part I --

(i) by repealing "57.00" in both places and substituting "66.00";

(ii) by repealing "35.00" and substituting "41.00"; and

(iii) by repealing "1.65" and substituting "1.90";

(b) in paragraph 1A of Part I by repealing "24.00" and substituting "28.00".

(c) in paragraph 2 of Part I --

(i) by repealing "160.00" and substituting "184.00"; and

(ii) by repealing "242.00" and substituting "279.00";

(d) in paragraph 4 of Part I --

(i) by repealing "1,045.00" and substituting "1,202.00";

(ii) by repealing "539.00" and substituting "620.00"; and

(iii) by repealing "18.00" and substituting "20.70"

(e) in paragraph 5 of Part I --

(i) by repealing "539.00" and substituting "620.00"; and

(ii) by repealing "18.00" and substituting "20.70";

(f) in paragraph 1 of Part II --

(i) in sub-paragraph (a) by repealing "\$240.00" and substituting "720.00";

(ii) in sub-paragraph (b) by repealing "\$310.00/kg" and substituting "930.00/kg";

(iii) in sub-paragraph (c) by repealing "\$60.00/kg" and substituting "180.00/kg";  
and

(iv) in sub-paragraph (d) by repealing "\$290.00/kg" and substituting "870.00/kg";

(g) in paragraph 1 of Part III --

(i) in sub-paragraph (a) by repealing "3.58" and substituting "3.76"; and

(ii) in sub-paragraph (b) by repealing "1.78" and substituting "1.87";

(h) in Part IV --

(i) by repealing "539.00" and substituting "620.00"; and

(ii) by repealing "18.00" and substituting "20.70"; and

(i) in Part VI by repealing "25%" and substituting "30%".

He said: Sir, I move the fourth motion standing in my name on the Order Paper.

The purpose of this motion is to increase the duty rates under the Dutiable Commodities Ordinance on hydrocarbon oils by 5%; the specific duty rates on all alcoholic beverages and alcohol by 15%; the duty on smoking tobacco and Chinese prepared tobacco by 200%; and the ad valorem rate on cosmetics by five percentage points. Subject to what I shall have to say about tobacco, the total additional gross revenue from these measures is estimated to be approximately \$2.2 billion per annum. There are no staffing implications.

Sir, I turn now specifically to the increase in the duty on tobacco products. I made it clear in my Budget speech that the increase of 200% was proposed for health reasons. Needless to say, the proposed measure was controversial. However, what has become clear is that by and large the community, and indeed Members of this Council, generally, have recognized the health reasons.

Unfortunately, the beneficial effect of the increase has in some ways been eclipsed by the effect of the measure on the Consumer Price Index. Recently issued year-on-year figures for March, published in April, have shown a 12.9% increase in the CPI(A) over March 1990. Within this figure, the increase in tobacco duties accounted for 1.4 percentage points (or 1.7 percentage points if the concurrent increases in tobacco prices over and above the duty increases are taken into account.)

These figures have caused great concern in the community, and this concern has been forcefully reflected to the Administration by Members of both this Council and the Executive Council. I am afraid that in the coming two months, we cannot expect to see a fall in the year-on-year CPI(A) figures. It has, therefore, been argued that in order to slow down the increase in the Consumer Price Index, I should reduce the duty on tobacco products.

Today I seek the passage of two resolutions. First, the original resolution which seeks to implement the various Budget proposals in relation to the Dutiable Commodities Ordinance. These proposals include the increase in the rates of duty on tobacco products of 200%. The further resolution, which I intend to move, will have the effect of reducing the duty rates from 18 May so that they will be just 100%

higher than the rates that were in force before I delivered the Budget on 6 March.

The effect of the two resolutions taken together is that the duty rates on tobacco products between 6 March and 18 May will be 200% higher than the rates that were in force before 6 March. Thereafter, the increase in duty rates will be reduced to 100% higher than the rates that were in force before 6 March. The reason for dealing with the matter in this way and for my not withdrawing the original resolution altogether is simply because to withdraw the resolution would result in having to refund duty paid by tobacco wholesalers who passed on the increase to the consumers, but the refund would not reach the consumers. Clearly that would be unfair and it would not address the concern of Members regarding the Consumer Price Index. That concern is addressed by my reducing the duty rates for the future.

Sir, I beg to move.

At this point Mr CHEONG declared interest as director of the British-American Tobacco Company (Hong Kong) Limited.

HIS HONOUR THE PRESIDENT: I have received notices from Mr Kingsley SIT and Mr Jimmy MCGREGOR to move amendments to the motion. The amendments have been printed on the Order Paper and circulated to Members. I will call upon them to move the amendments when it comes to their turn to speak.

Question on the Financial Secretary's motion proposed.

MR ALLEN LEE: Sir, I strongly agree and support the Financial Secretary today, and particularly I would like to speak on the tobacco duty.

I would like to make three points. The first point is: there are members of the community accusing Members of this Council of yielding to the tobacco lobby and this is absolutely not true. In our In-House meeting we acknowledged the problem of health and we agreed that health measures could be by way of increase in tobacco duty. Therefore the problem of supporting the tobacco lobby does not even exist.

The second point I would like to address is on the anti-smoking campaign -- I see my friend, Dr Ronald LEUNG, is here in the gallery, listening to this debate and

members of Mrs Elizabeth WONG's staff too. Members of this Council are very conscious of the hazards to health caused by smoking, and as proposed by the Financial Secretary, later on he will move an amendment to effect a 100% increase, which is no small measure either. It is a message not only to Hong Kong but to the rest of the world that we care about health, and that the increase by 100% of our duty rates is an appropriate measure.

But most important is the third point I am trying to address. It is that the whole community of Hong Kong today acknowledges inflation is our public enemy number one. In addressing the inflation problem many of my colleagues and I have made a strong plea to our Government to take the lead on anti-inflationary measures. And I praise the Financial Secretary for his courageous move as the first step in Government's dedication to fight inflation. Inflation is hurting everybody and undermining our competitiveness. It is the most serious problem that this community is facing today, and we must tackle it, and tackle it with vigour. Tobacco itself features prominently in the Consumer Price Index; therefore I hope this is the first step that the Government will take the lead -- and the community will respond -- to fight inflation.

The Financial Secretary mentioned just now that our inflationary rate recently has reached 12.9%. It is very high; it is the third year in a row that we are facing this problem and this Council and the Government must tackle this problem. And I hope this is only the first step that we will take to tackle this problem. And on the 29th of this month, my colleague, the Honourable LAU Wah-sum, will move a motion in this Council on inflation and on the methods of tackling inflation. I certainly hope that our Government will respond to this Council's request.

Sir, I support the motion.

MR CHEUNG YAN-LUNG (in Cantonese): Sir, with regard to the reduction of duty on tobacco, I mentioned in my Budget debate speech that the 200% increase in tobacco duty will have a desirable effect on public health. The recent decrease in tobacco sales fully supports this argument. If today's motion of reducing the tobacco duty rate by 100% is passed, I urge the Administration to put in more efforts on pursuing anti-smoking measures and consider vigorously the setting up of anti-smoking zones in all public areas so as to offset the effects caused by the lowering the tobacco duty rate.

Sir, the political art of heeding public opinion on one hand and striking a balance between the complementary variables of "upholding the principle" and "being flexible" on the other is always welcomed by the public.

Sir, with these remarks, I support the motion.

MRS CHOW: Sir, I am glad to rise to support the Financial Secretary's motion on the understanding that he will move the necessary amendment later to reduce the proposed increase, as he has undertaken to do so just now. During the Budget debate I already made it plain that I thought the proposed increase of 200% was too hefty and I am therefore only too glad that the Financial Secretary has finally decided to take what in my view is the right decision.

Governments are not infallible and they are not expected to be so. Circumstances change and the government that responds to changing circumstances is the government that will enjoy the respect and the support of the people.

Sir, during the same debate I questioned why tobacco merchants always choose to increase the price of cigarettes whenever there is an increase in tobacco tax. In spite of the many advertisements and the information submitted to us by the trade -- I dare not use the word "bombardment" -- the fact remains that every time the tax increases, they also put something on top. This is seen by the public as the trade cashing in on the opportunity to shift the responsibility of the bigger bill to the tax increase. In view of the very responsive moves the Administration has made, I appeal to the trade not to add anything on top of the tax increase so that the consumer would not be further burdened. Such a move would certainly vindicate the trade from the accusation that their lobbying and campaigning, which they have mounted so visibly in the last month or so, has been entirely out of self-interest.

Sir, I support the motion.

MISS TAM: I am happy to support the Financial Secretary in his motion and in the resolution that he will seek to pass in this Council today. When I made my speech in the Budget debate about a month ago, I had no difficulty supporting even a 200% rise in the tobacco tax for health reasons, and indeed in the last two months I have received many pamphlets and letters urging me to look at the possibility of divorcing

the cause of cancer and other health hazards from tobacco smoking or cigarette smoking. But indeed I had personal experience in watching how one member of my family by marriage suffered because of an attack of asthma about two years back. He actually collapsed in a shopping centre in the New Territories. He was rushed to the Prince of Wales Hospital and then transferred to another hospital in Kowloon where he was attended by doctors and nurses for six weeks during which all his basic life functions were supported by machines. The major reason that he had this serious attack of asthma was because he had a long history of respiratory illness and he had been advised by doctors for many years not to continue chain smoking. He ignored the advice and thought it was not really going to do any harm. Believe me, I had watched my own sister gently persuading her husband to hang on for dear life sometimes in the day time, sometimes at night. And in the corridor I heard much about the harm of smoking cigarettes from doctors and nurses. So I never really need any more persuasion that it is right to increase tax for health reasons on tobacco. However as inflation is raging in Hong Kong and I had personally spoken on it though on a different aspect, for example on a 5% increase in tax on hydrocarbon oils, I thought that it might be wise somehow to reduce the impact of tax increase on the CPI(A). Therefore I totally welcome the move by the Financial Secretary in introducing the two resolutions later on today. But I hope Government will take immediate measures to look into other ways of discouraging the public in Hong Kong from smoking. There could be further or more stringent bans on advertisement and better education. Maybe Dr Ronald LEONG could go back to his committee and think of more ways to ensure that the health of this community is also protected. I therefore support this motion.

MR MARTIN LEE: Sir, the public is highly concerned about inflation, and this is not surprising considering that inflation is currently running at an annual rate of 12.9% and it could get worse. For this reason, much of the opposition to the 200% increase in the tobacco duty stems from its inflationary effect during a period of acute worry about higher prices. Viewed in this light, the move to reduce the duty should be supported, for it will provide some relief from rising inflation. Yet, there are other major considerations at issue here, primarily health and environmental.

Sir, if the choice had been given to Members of this Council before the decision was made as to whether there should be a 100% or 200% increase in tobacco duty, I have little doubt that most Members would have opted for a 100% increase only. Yet, for obvious reasons, there was no such prior consultation, and the Financial Secretary decided on 200%. No doubt, the Financial Secretary at that time was aware of the effect on inflation of such a 200% increase, but he must have believed that the

positive effects of the duty for health reasons would outweigh its negative effects on inflation.

The Government, however, is now making an abrupt U-turn. In deciding to lower the increase of duty to 100%, it has decided that inflation is more important than health. This U-turn sends the wrong signal to smokers, many of whom might have been persuaded already by the 200% duty to give it up. Now, the Government has shown itself to be wavering on this issue, and I am afraid that the impression both locally and internationally will be that this Government is not committed to discouraging smoking. If the Financial Secretary's original 200% increase showed his whole-hearted support for the Government's avowed policy of curbing cigarette smoking, his present proposal for a 100% increase can only be described as half-hearted.

Throughout this episode, the performance of the Government has been dismal, even reprehensible. When the Financial Secretary announced the 200% duty increase, he stated that it was a health measure. Yet, there was absolutely no proposal to use any of the additional revenue for health purposes, such as education, prevention, or cure programmes. Nor was there any attempt to take a highly regressive sting out of the duty by reducing the duty burden on low-income taxpayers through measures such as a raise in the personal allowance.

During the two months since the Financial Secretary first introduced the duty in his Budget speech, moreover, the Government has done virtually nothing to show conclusively how such a duty would be good for Hong Kong in the long run. For example, I read in this morning's newspapers several statistics produced by Dr Judith MacKAY showing the negative economic consequences brought about by smoking in areas such as health care costs. Why has the Government not produced any similar figures? Neither the Financial Secretary nor the Secretary for Health and Welfare has fought hard on behalf of the duty, and the two branches they head have engaged in a hapless shifting and evasion of responsibility. The incompetence of the Government has caused many in the public to doubt whether health was in fact the primary reason in raising the duty.

Similarly, the Government has done virtually nothing to limit smoking in public places. The Government has been sitting on proposals for quite some time now to ban smoking in enclosed public places like buses, cinemas, and government buildings. I urge the Government to stop delaying with these proposals and to introduce legislation before this Council that would ban smoking in such places. And I urge the Government



to do this before the summer. I have already waited too long. Second, I urge the Government to set up programmes that will discourage people, especially the young, from taking up smoking and assist smokers to give up the harmful habit.

Sir, seldom have I felt so torn on any issue such as this. From the inflation's point of view, any measure that will bring it down should be supported. But from the point of view of health and environment, this measure will clearly send the wrong signal to our community and will send the tobaccoists laughing to their bank. In the circumstances, conscience dictates that I abstain from voting on the proposed amendment.

MR POON CHI-FAI (in Cantonese): Sir, I do not smoke nor do I support or encourage smoking, but I am glad to see that the Financial Secretary has finally decided to move an unprecedented motion to reduce the tobacco duty in response to the strong objection of the general public and the Members of the Legislative Council in the past two weeks. As a matter of fact, the hefty increase in tobacco tax as well as other increased charges and duties have given rise to a chain of price spirals and led to an undesirable high rate of inflation which have adversely affected the livelihood and economic development of Hong Kong. In face of the high cost of cigarette, elderly members of the middle and lower classes who have been smoking for years and are unwilling to cut off the habit may have to curtail expenditure on other items and their living standard is therefore lowered.

Sir, the substantial reduction proposed by the Financial Secretary in the initial duty rate of tobacco also indicates that he is willing to accept public opinion in this respect so as to allow the lower income earners who do not want to give up smoking to be able to maintain their standard of living and the effects of the measure are, to a certain extent, beneficial to the lowering of the inflation rate.

We are delighted to see that the Financial Secretary has the courage to propose such an amendment and the amended duty rate is worthy of our support.

Sir, with these remarks, I support the motion.

MR PAUL CHENG: Sir, as a director of Inchcape Pacific I must declare an interest in that one of our subsidiaries markets a branded tobacco product.

I voice my concern that the Financial Secretary is exercising social engineering over fiscal matters when responding to his Budget speech. Now the Government appears to be reverting back to fiscal engineering to adjust the CPI. It is obvious we do not have an overall strategy and our budgeting planning is purely reactionary. We need an overall consistent strategy to not only address inflation but also issues like free port status and our competitive edge in the international arena. Hefty tax increases which raise consumer prices fuel inflation and hurt everyone. They hurt consumers, they hurt businesses, they hurt the people they employ; in the bigger picture they hurt Hong Kong's competitive position in the world economy. We need to be careful in singling out specific industry sectors to be major revenue generators to meet our annual budgeting needs. In the case of the tobacco industry we are already aware of public concerns regarding the impact of this tax increase proposal on inflation, and its impact on the lower-income groups. Moreover, smuggling has become rampant and projected revenues may no longer be realistic.

The cosmetic industry is another example of how targeted tax increases on a narrow sector do not work. A full 75% of the perfume and cosmetic business is tourist trade. The 30% taxation rate encourages tourists to buy their cosmetics elsewhere. This negative situation is further aggravated by the fact that Singapore is totally duty-free on cosmetics, and Taiwan only levys a duty of 10%. Hong Kong's image as a duty-free destination is being eroded.

I welcome the Financial Secretary's action to adjust this error in the tobacco industry but this proposed lowering of duty on tobacco does not fully address the problem that increased tax measures are fuelling what has become public enemy number one -- inflation. What is happening is that not only are particular industries feeling victimized but everyone in the broader community is feeling victimized as well. Such momentum undermines Government's effectiveness. I therefore call upon Government to think longer term and refrain from reacting to short-term pressures. It is time to implement a more visionary approach to budgetary planning.

With these remarks, Sir, I shall be voting in support of the motion to be moved by the Financial Secretary to reduce the tobacco tax because anything which helps to reduce inflation is better than nothing.

MR MICHAEL CHENG (in Cantonese): Sir, it is evident that the 200% increase in tobacco

duty, originally put forward by the Financial Secretary, has fuelled inflation and given rise to a surge in cigarette smuggling. Contraband cigarettes, offered at a much reduced price, can be obtained almost everywhere in the market; hence the projected revenue from tobacco duty appears to be no longer realistic. The tax hike, moreover, has led to an upsurge in crimes. The present amendment, promptly introduced by the Financial Secretary, to lower tobacco tax increase from 200% to 100% is a good step forward which reflects the openness of our Administration. But I still feel that the reduction is far from sufficient. I would suggest that duty rates for tobacco be reduced to 50%, that is to say, a packet of cigarettes, originally priced at around \$12, should sell for roughly \$15. The 50% rise is in fact greater than the average tax increase for all other taxation items proposed in the Budget. Two main reasons underlying this recommendation are:

(1) It is hoped that cigarette smuggling can be stemmed at source. If profits were not attractive enough to be worth the risk, smuggling activities would die out.

(2) The public has already been hard hit by the recent high rate of inflation and exorbitant cost of living. To many poor people, manual workers and adults, smoking has become part of their lives. Smoking is by no means a luxury and the money spent on cigarettes could be said to be an essential item of their daily expenditure. To stop smoking immediately is easier said than done. So even if the tobacco duty were adjusted to give a two-fold increase, it would still be a burden to these people.

Based on the two reasons mentioned above, I would like to urge the Government to consider a further reduction of duty rates from 200% to 50%.

MRS FONG: Sir, I totally agree that an increase of 100% in tobacco tax is no small increase. However, I do feel that a reduction of the duty from 200% to 100% sends a completely wrong message internationally and locally, particularly to smokers and hence I find that I cannot support the motion.

MRS LAM (in Cantonese): Sir, I expressed my worries over the immense increase in indirect taxes during this Council's debate on Budget in March, fearing that inflation might soar. That very day, the Financial Secretary only expected an inflation rate of around 7.5%, but the latest Consumer Price Index has now reached as high as almost 13%. Measures to contain inflation must be sought and implemented. If not, the economy of Hong Kong will certainly be damaged. The standard of living of the general

public will also be lowered. I believe these are the last things that the Government and Members want to see in this world.

I am not a smoker, and neither are my family members and relatives. We firmly believe that smoking is hazardous to one's health and the clouds of smoke one blows are hazardous to others' health. The effects of smoking on young people are particularly serious and damaging. That is why I said during the debate in March that it gave no cause for much criticism to encourage the public to change their habit by increasing tobacco tax. However, to increase the tax by 200% all of a sudden is considered to be a drastic and impractical measure. Obviously, our livelihood is adversely affected and inflation soars. In view of this, the Financial Secretary is now proposing to cut the increase in tobacco tax by 50%, hoping this would contain inflation. I strongly acclaim this proposal which, I think, shows that the Secretary is a person who readily accepts others' advice and takes the interests of the whole into consideration.

Cutting the increase in tobacco tax alone is not enough. To supplement the measure, I have the following suggestions:

(1) The tobacco industry should not make use of this chance to increase their profits, thus aggravating the inflationary situation and the purpose of cutting the increase will be defeated.

(2) To safeguard the health of the young people, selling cigarettes to people aged 18 or below should be prohibited by law. This is similar to the practice of preventing people aged 18 or below from watching movie films classified as Category III films.

Sir, with these remarks, I support the previous motion as well as the later motion by the Financial Secretary to amend the tobacco tax.

MR LAU WAH-SUM (in Cantonese): Sir, I am always behind the proposed 200% increase in cigarette tax. In my view, health is more important than wealth. For the sake of our next generation, I would like to urge the Government to extend the measure of designating no smoking areas in public places so as to minimize smoking, either directly or indirectly.

I am always concerned about inflation. But all indirect taxes, not just the levy on tobacco, may affect inflation. It would appear to me to be most unconvincing if the Government should sacrifice the health of our next generation for the sake of a lower rate of inflation. I am therefore disposed to reaffirm my support to the 200% increase in tobacco tax and would like to declare that I am opposed to the motion on the reduction of duty rates to 100%.

DR LEONG: Sir, the medical profession is convinced and concerned that smoking is hazardous to health. There are ample reasons to support the fact that many debilitating and killing diseases are either directly or indirectly linked with smoking. Furthermore, it affects the innocent passive smokers, in the same way as the active smokers themselves. Statistics have shown that smoking habit is dangerously spreading to our younger age group. We therefore support and endorse any effective and efficient methods that would curb smoking especially amongst the young.

The 200% increase in tobacco tax will no doubt be a method to curb potential smokers in that they will think twice before picking up the habit. What the Government should do is to demonstrate that anti-smoking is its intention of increasing tobacco tax. This it can well do by channeling a major share of the increased revenue to anti-smoking efforts and health related measure.

Sir, it must be remembered that the anti-smoking issue is a joint effort. It is as much the responsibility of the medical profession, the public -- the cost in terms of health to the latter is a matter of concern to my friend, Dr Ronald LEUNG, up in the gallery -- and also that of the Government.

Sir, it is most amicable that the Financial Secretary will afterwards move to reduce tobacco tax in an attempt to reduce inflation and, as it were, not to dig too deeply into the purse of the common man on the street whose daily pleasure consists but a few puffs. But this move, Sir, obviously begs a few very important questions.

On 6 March 1991, in the Budget speech, the Financial Secretary pronounced a 200% increase in tobacco tax, crusading as it were for health reasons. To me, as I mentioned before, this was the height of hypocrisy. Is it really for health reasons or is it to improve the revenue?

Now, Sir, hiding behind the veil of inflation, he is now reducing the tax by half

to 100%. How committed then is Government to curb cigarette smoking? Is Government really concerned with the health hazards of smoking or is this just another hypocritical hat trick?

Whilst it would be difficult to object to lowering tax to curb inflation, Government must simultaneously introduce proposals on other workable and efficient measures to curb smoking to assure the people of Hong Kong that Government intends to practise what it preaches.

No doubt, Sir, cutting down tax can curb inflation. But let us do not forget that deterring people from spending money on cigarettes is perhaps just as efficient in curbing inflation.

Government is singling out cutting tobacco tax to curb inflation. Is any consideration being made to cut the increase of other indirect taxes that affects every man on the street and not just the smokers? After all, we have to remember that statistics show that there are 87% of people in Hong Kong who do not smoke.

And finally, Sir, by singling out cutting tobacco tax, it would be difficult, even if it is not true, for Government to shed the perception that the whole move is really bowing to the pressure and strong lobbying of the tobacco industry.

It would be doomsday for Hong Kong and for the health of Hong Kong people if the tobacco industry were to be given the opportunity to claim victory and that what they preach about raising tobacco tax to be "wrong, wrong and wrong" is now shown to be "right"!

Sir, unless these questions are satisfactorily answered, basing on entirely health grounds and reasons, the medical profession cannot support the resolution that the Financial Secretary will be moving later and therefore I have to abstain from this particular motion.

MISS LEUNG (in Cantonese): Sir, I speak only in regard to the motion on the tobacco tax increase.

Sir, one thing has kept annoying me for four weeks. On April 17 and 18, the Hong Kong Tobacco Association Limited placed a full-page advertisement in between 10 and

20 major newspapers in Hong Kong for two days consecutively. The advertisement was entitled "Please Listen to Us." The advertisement criticized the Government for the 200% tobacco tax rate increase. They included excerpts from speeches made by some Legislative Council Members at the Legislative Council's open meetings on March 27 and 28 debating Government's Budget proposals for 1991-92.

I take this opportunity to make a sincere and solemn statement that the advertisement of the Tobacco Association completely distorted my original meaning and misled the public when they quoted me as saying, "The 200% tobacco tax increase may be described as too harsh and reckless." I made my original speech in Cantonese, and what I said was, "With regard to tobacco, increasing the tax rate by 200% at one go is obviously too high and too hasty. The new tax rate should be a bit lower." It is easy to see that the two expressions convey meanings that are thousands of miles apart. Were the speeches of other Legislative Council Members misinterpreted? I have no way of finding it out.

Sir, since 6 March when the Financial Secretary moved in his Budget speech to raise the tobacco tax rate by 200% at one go, the response of the public has been very strong. Expert and non-experts from all sectors of the community have either widely expressed their views for or against the proposal or offered new proposals.

As far as I know, Hong Kong's most authoritative consultative body on smoking and health problems, namely, the Hong Kong Council on Smoking and Health, and Hong Kong's most authoritative professional organization, namely, the Hong Kong Medical Association, have resolutely expressed their support to Government's proposal to increase the tobacco tax by 200%, so as to curb the smoking habit. Some organizations and individuals who are not involved in direct or indirect interest have called on the Government to increase the tobacco tax, but at a percentage lower than the 200 mark. The commercial organization, namely, the Tobacco Association, whose interests are most affected by the tobacco tax increase, thinks that the tobacco tax increase proposed by the Government should not exceed 30%. The political body to which I once belonged, namely, the Hong Kong Democratic Foundation, thinks that the tobacco tax increase proposed by the Government should not exceed the rate of inflation.

Sir, cigarette smoking is obviously hazardous to health. A large number of chemical and medical tests and clinical experiences have shown that 80% of lung cancer cases were caused by smoking; this means that smoking is the single most important cause of lung cancer. Statistics also tell us that the mortality rate among smoker-patients of lung cancer is 10 times as high as that among non-smoker-patients

and that 75% more smokers died from other diseases than non-smokers. Regrettably, many smokers dare not face, still less want to know, these statistics. In any case, I wish to remind smokers that because less than 20% of Hong Kong's population indulge themselves in smoking, the non-smokers, who are the majority by far, are forced to become passive smokers. Smoking is not only hazardous to the health of smokers, but also harmful to the health of non-smokers. To these non-smokers, this is both unfortunate and unfair.

Sir, some interested organizations and individuals, as well as some smokers, often stress that one is absolutely free to smoke and that this is one of people's basic right. However, the smokers intentionally or unintentionally keep encroaching upon non-smokers' freedom of not becoming passive smokers and depriving them of their right to breathe smokeless air. We think that this must be rectified comprehensively and systematically.

That very day since I assumed my public office, I, a non-smoker, have been forced to become a passive smoker in government buildings and buildings of statutory bodies, especially in conference rooms. My freedom of not becoming a passive smoker has been encroached upon. I have been deprived of my right to breathe smokeless air. Since I became a Member of this Council, because some of my colleagues are fanatic smokers, my freedom and right has been encroached upon to a very serious extent.

Sir, at an open meeting of this Council on 27 June last year, I raised a written question in which I asked whether the Government would consider taking steps to protect the broad masses of non-smokers, especially those who hate smoking, from being forced to become passive smokers, such as prohibiting by law smoking in public places, government buildings, buildings of statutory bodies, and places and conference rooms to which the public may have access. At that time, the Secretary for Health and Welfare replied, "In March last year, the Government announced its intention to amend the Smoking (Public Health) Ordinance, thus enlarging the no smoking areas in public places and banning smoking in all forms of public transport including taxis, in cinemas, theatres, concert halls and video-game centres. The appropriate amendment Bill will be presented later this year to this Council for consideration." But up to this day, we have not seen the amendment Bill being presented to this Council for consideration.

In any case, I would urge the Government to amend the Smoking (Public Health) Ordinance as expeditiously as possible and, at the same time, to take appropriate



steps to ban smoking in public places and in conference rooms of government buildings and buildings of statutory bodies, including the building of this Council. In addition, I would also appeal to the private sector to take similar measures, such as marking off no smoking areas in offices.

And finally, Sir, I think that an increase in indirect taxes should at least meet two requirements. The first is that basically the public must be psychologically prepared well in advance. Secondly, as far as possible, exceedingly high increases at one go should be avoided; increases should be effected over a number of phases.

As for the present proposal to increase the tobacco tax by 200%, I do not care what the Government thinks, but my view is that the consideration of the health of the people is the most proper reason. This is because smoking is hazardous to health. It is hazardous to the health not only of smokers but also of non-smokers. So I am not against the proposed 200% increase. As for the motion to reduce the increase to 100%, I shall only conditionally refrain from opposing it. The condition is that the problem of no smoking areas must be solved and that the Government must assure the early provision of sufficient no smoking areas where the smoking ban is effectively enforced. At the same time, the authorities concerned must further intensify its education and publicity against smoking.

MR CHOW (in Cantonese): Sir, I speak in support of the proposed reduction of duty rates for tobacco. I do not smoke and would never like to be a passive smoker. But as I mentioned in the Budget debate this year, the hefty rise in tobacco tax would lead to inflation so that in the end it might not only be the smokers who would suffer but also the unfortunate public at large. If the tax hike were meant to be a measure to reduce the smoking population in the territory, I would suggest that a more gradual approach be adopted by way of promotion and education on anti-smoking. Levying as a disincentive is in no way the best solution to the problem. Moreover, the impact of inflation brought about by an increase in tobacco tax can be so widespread and far-reaching that the damage may outweigh the effect the tax has on smokers. Viewed from the perspective of health, I should say I am ready to accept this rise in tax. But we must not forget the other purpose of introducing this hefty increase -- the projected revenue gains -- which I doubt if it could ever be attained. Since the rise in tobacco duty, cigarette smuggling has become rampant, both by land and by sea. It is an inarguable fact that contraband cigarettes have already flooded the local market. Many friends of mine who are smokers have told me in private that

cigarettes are much cheaper now than before the tax hike and that they can be obtained very readily from the market. Given that the tobacco duty had failed in its mission of anti-smoking and if the increase were meant to be for the good health of the people, I would have thought that we should consider other contingency measures rather than a stubborn adherence to the tax increase measure.

Sir, I would suggest that the tax revenue collected during these three months be used to fund any education or promotion programmes on anti-smoking. I would also like to urge the Government to expand the no smoking areas in public places as a means to show its determination in the combat against smoking.

Sir, these are my remarks.

HIS HONOUR THE PRESIDENT: As Mr Jimmy McGREGOR is not here to move his motion, Mr Kingsley SIT, you may speak to the question and also move your amendments now.

As the amendments proposed by Mr Jimmy McGREGOR and Mr Kingsley SIT relate to the same subject, in other words, it is cognate, to use the technical parliamentary term, I intend that they be debated together unless Members dissent.

MR SIT moved the following amendment to the Financial Secretary's motion:

"That the Financial Secretary's motion under the Dutiable Commodities Ordinance be amended in paragraph (f)(i) thereof (relating to paragraph 1 of Part II of the Schedule to that Ordinance) by deleting "720.00" and substituting "480.00"."

MR SIT (in Cantonese): Sir, in accordance with Standing Order 24(3), I hereby move to amend the Financial Secretary's motion under the Dutiable Commodities Ordinance as follows:

"That the Financial Secretary's motion under the Dutiable Commodities Ordinance be amended in paragraph (f)(i) thereof (relating to paragraph 1 of Part II of the Schedule to the Ordinance) by deleting "720.00" and substituting "\$480.00"

Sir, when the Financial Secretary moved his motion just now, he stated clearly that he would later move his fifth motion in which he would propose to reduce the tobacco tax from 200% increase to 100% increase. Learning this, I felt very glad.

Suddenly, I felt as though an amnesty order had just been announced, and everybody was so grateful that they could not help being moved to tears. However, we do not feel that the community of Hong Kong is one where people are singing and dancing to celebrate the good times, a scene of general prosperity. Many people are still living in an abyss of misery. Inflation is a good example.

The Financial Secretary has moved to reduce the tax from 200% increase to 100%. This proves one thing -- the 200% increase is extremely unpopular. Viewing the matter positively, I think that although we can praise the Financial Secretary Sir Piers JACOBS for his willingness to accede to public opinions, I do not wish to add a word of praise because many people have in fact said a lot of such things. I would like to try to analyse from a different angle the reason why the 200% increase was reduced to 100%. As we know, a tax increase is a major event that affects both the community and the livelihood of people. It is no child-play, and, therefore, we cannot change an order given only this very morning. The Financial Secretary has proposed to reduce the tax from 200% increase to 100% today because he is in a good mood. Two days later, or at the next meeting, when he is not in such a good mood, will he change it from 100% to 500%? On what criteria the Government will base when formulating a tax increase policy? Should health or inflation be the reason? So I feel that the Financial Secretary should give clear explanations to the public as well as to this Council.

My second point, which is the major part of my motion, is about the return of the tax money that has already been collected. The Financial Secretary cited the Public Revenue Protection Ordinance (Cap. 120) when he announced the 200% increase of tobacco tax on 6 March. If my memory does not fail me, the Ordinance gives the Financial Secretary four months to turn his amendment proposals into law. In other words, up to this day, the 200% increase has not yet been incorporated in the Laws of Hong Kong. Since it is an interim measure, I believe that the Government, or the law draftsmen involved in its enactment, should know whether, if the tax increase amendment is not passed, the tax money collected should be returned to the taxpayers. I think that this is a matter of principle. I have of course heard from the Government that for administrative reasons, it is difficult to return every cent of the tax money to the taxpayers. Nevertheless, Hong Kong is a place which is ruled by law. We should not give anything up just because of administrative difficulties. I would like to use an analogy here. One day the Commissioner of Correctional Services says to a judge, "The prisons of the Correctional Services Department are all full. As a temporary measure, will you just fine the criminals instead of sending them to

prisons?" I believe that this would be absolutely impossible. This is because whether an accused is guilty or not is a matter for the judge, with whom nobody may interfere for administrative reasons. The Government has indeed over-collected tax money in accordance with the Ordinance. So I suggest that the money be returned to the taxpayers. If it is not returned because it is difficult to do so, this will set a very dangerous precedent. If such a principle is recognized, the Government may in the future "disguise increases as decreases." To use a cliché, "The Government will lose a little in order to gain a great deal." When the Government intends to increase taxes in the future, it can simply increase them by 500% and then reduce them to 300%. If this was the case, would we feel so grateful that we could not help being moved to tears again, thinking that Government is kind and just? I feel that it is a matter of principle and not a matter of actual implementation.

As to how the tax money is returned to the tobacco dealers, I feel that problems do exist. I have discussed the matter with some tobacco dealers. They indicated that they did not want to get back the tax money from the Government, as they held the maxim that "let bygones be bygones". This being the case, I think that the Government may deal with the matter in three ways, none of which means giving the money to the public revenue.

Firstly, when Government moved to impose the 200% increase of tobacco tax, it gave health as the reason for it. I saw for the first time at a Legislative Council meeting the Honourable Mrs Elizabeth WONG holding up a big placard, showing that smoking is hazardous to health. For this reason, I suggest that the tax money be given to the Council on Smoking and Health to meet its various expenses. This is because the Council is short of funds.

Secondly, the tax money may be donated to the Community Chest. This will show a benevolent gesture of Hong Kong.

Thirdly, consideration may be given to using the tax money to enhance the welfare of old people.

Sir, with these remarks, I beg to move.

Question on Mr SIT's amendment to the Financial Secretary's motion proposed.

HIS HONOUR THE PRESIDENT: Mr McGREGOR, you may now speak to the Financial Secretary's motion, or move your amendment or speak to Mr Kingsley SIT's motion.

MR McGREGOR: Sir, I should like to speak to my own motion, if I may.

HIS HONOUR THE PRESIDENT: Yes, please.

MR McGREGOR: Sir, I have prepared a rather neat little speech to introduce my amendment motion. This included references to public interests, public concern, and even public shock over such a very large increase in tobacco tax. I wanted to show that this Council was also deeply troubled and that this feeling had been expressed in support of my motion by a large majority of Members.

The Financial Secretary has clearly heeded public opinion and has decided to take remedial action. I think that that was a brave decision to make and one which suggests that the Hong Kong Government is more than ever responsive and accountable to broadly-based public opinion. I commend him for the action he will now take in this Council. I am sure it is the right decision in all the circumstances. When he moves the next amending motion I shall speak on the issue again.

Sir, for these reasons and because I am really rather a decent person, I wish to withdraw my amendment to the motion.

HIS HONOUR THE PRESIDENT: If there is no dissenting voice I would take it that the Council agrees to the withdrawal of Mr McGREGOR's amendments to the Financial Secretary's motion. Could I have the names of Members who wish to speak to Mr SIT's motion?

MRS CHOW (in Cantonese): Sir, if I remember well, Mr SIT's proposal was one of the items under consideration when the ad hoc group discussed the question of tobacco duty. Members, however, expressed great reservations about Mr SIT's proposal, particularly the suggested return of revenue gains to tobacco companies. We did not accept such a proposal. In fact, we would have no objection if the money were to

be returned to the consumers. But in this case it is the tobacco companies who have paid the tax, not the consumers; and we hold the view that the tobacco companies should not be given the tax refund.

As to the measures put forward by Mr SIT, we would say that they smack of granting this Council special privileges to the extent that it needs not be bound by law. The law provides that revenue gains, under such circumstances, should be returned to the taxpayers. We, however, hold the opposite view and rule that the money should not be refunded but be set aside for charitable purposes. Yet this is not a course of action prescribed by law, so we cannot simply ignore this fact and insist on carrying it out. The ad hoc group has thought over the whole question and, based on the above reason, decided against amending the original motion. Instead, we support the Financial Secretary's proposed arrangement, namely, to validate the already implemented 200% tax hike by way of legislation and to introduce to this Council another motion to amend the legislation. The change -- if the second motion is carried -- will not have retrospective effect and the question of tax refund to the tobacco companies will cease to be a problem.

MR ANDREW WONG (in Cantonese): Sir, as I am a smoker myself, I wonder if I have to declare myself an interested party. I smoke a lot of cigarettes. I smoke a pipe from time to time as well. Sometimes, I smoke a cigar after a meal. When I meet friends who roll their own tobacco, I join them for the fun. Luckily, although I indulge myself in all these four kinds of smoking, I do not hold any share of the British American Tobacco Company. So I am not unduly worried about the matter of interest.

Basically, I have great moral support for the Honourable Kingsley SIT's amendment motion. Similarly, I support the Honourable Jimmy McGREGOR's amendment motion, though he has already retracted it. Also, I am very much in favour of the motion that the Financial Secretary is about to move, that is, the motion to reduce the tobacco tax from the present 200% increase to 100% increase. I do not want to make a lengthy statement here. I merely want to react to some of the points that have just now been debated.

Firstly, only 13% of Hong Kong's population are smokers. Babies, of course, do not smoke. So 13% represents 26% of adults, meaning that a little over one-fourth of adults smoke. This is by no means an insignificant number. So I want the

Honourable W.T. LEUNG and the Honourable Dr C.H. LEONG to take note of this point, and the Council on Smoking and Health to work even harder for the time to come in the hope that all habitual smokers will kick the habit.

Secondly, people are of course free to smoke. Existing law permits smoking. People are also free not to smoke and can of course choose not to smoke. Passive smokers, however, are deprived of any choice. This is something like the occasional appearance of some unidentified gaseous substances. No preventive measures can be taken either. One cannot help inhaling the gas, but can we say the one responsible for the leakage of such unidentified gaseous substances is encroaching on the freedom of other persons?

Thirdly, many of us have argued that smoking is hazardous to health. If smoking is really hazardous to health, raising the tax to 200% or even 2 000% will clearly not be enough. The Government should impose a total ban on smoking. This is the only way to safeguard the health of both active and passive smokers. One cannot help suspecting that the 200% increase is merely some kind of hypocrisy. I am not suggesting that the Government is hypocritical because the Government is basically not hypocritical. This is probably due to the fact that a total ban on smoking is difficult to enforce because it may invite more smuggling activities, or cause people to smoke in private. In view of all these, I think that the right approach is not to impose a 200% tax increase, but to do what Singapore is doing. Cigarettes are cheaper in Singapore than they are in Hong Kong, but in Singapore smoking is prohibited in restaurants, in cinemas, and so on. Such a measure is effective. Their effort is supplemented with education. Any person under 18 is not allowed to buy cigarettes. Such are the things that we should do, and not the imposition of a 200% tax increase. It was at one time hoped that the imposition of a 200% tax increase would bring \$1.9 billion to the coffers. I really do not understand what this means. Now the balloon has probably burst.

Sir, although I said that I would morally support the Honourable Kingsley SIT's amendment motion, as a matter of fact, I cannot support it. The reason has just been clearly given by the Honourable Mrs Selina CHOW. This is a matter of principle. After the Government makes a tax proposal, if excess tax is collected, even though temporarily in accordance with the Public Revenue Protection Ordinance, no return of the tax can be effected unless the consumers or the actual payers can be identified. The alternative is to do what the Honourable Kingsley SIT has just said, that is, to return in full the excess tax so collected to the tobacco dealers. The tobacco

dealers may willingly and generously donate the money to the Community Chest, to the Council on Smoking and Health, to the old people's welfare fund, and so on. However, we cannot guarantee their so doing. So as mentioned by the Honourable Kingsley SIT, we should take this opportunity to give the money to the organizations concerned, such as the Council on Smoking and Health, the Community Chest, the old people's welfare fund and so on. But this is possible only after the Financial Secretary's another motion on Dutiable Commodities Ordinance -- which he will move later -- or the Honourable Jimmy McGREGOR's amendment motion is approved, making the return of the tax money unnecessary. Then the money can be put to those uses.

To sum up, firstly, the Honourable Kingsley SIT's amendment motion touches on the cigarette tax only, and nothing is said on other kinds of tobacco, such as cigars, tobacco made in China and other kinds of processed tobacco. Mr SIT is very generous. He is a cigar smoker. Besides Mr SIT, other people smoke cigars too. There are also other people who smoke pipes, using either Chinese tobacco or foreign tobacco, and those who roll their own tobacco, using either Chinese or foreign tobacco.

Secondly, the Honourable Kingsley SIT's amendment motion will take effect on 6 March. Because of this, the tobacco dealers will be able to get back the excess tax money so collected.

Thirdly, the Financial Secretary has said in advance that he will soon move another motion, whereby all kinds of tobacco will be treated in the same way and that the reduction from 200% increase to 100% will take effect on 18 May. As a result, it is not necessary for the Government to return any excess tax money. I think that the Financial Secretary's approach to tobacco tax reduction is preferable.

For all the reasons mentioned above, Sir, I cannot support the Honourable Kingsley SIT's amendment motion, and I urge all my colleagues to vote against it.

MR McGREGOR: Sir, I have to inform this Council, incidentally, that Mr SIT is a huge smoker himself of enormous cigars, extremely expensive cigars. So I suppose the extra duty would not matter too much against the cost.

I would like to make a couple of points, Sir. A very large number of people do smoke. The question proposed by Mr SIT of reducing the tax is one to which, I think, we would all agree -- and we will agree shortly I am sure. But the possibility that



money has to be paid back to the tobacco companies is unacceptable, I am sure, to all Councillors here.

With these remarks, Sir, I do not support Mr Kingsley SIT's motion.

MRS SO (in Cantonese): Sir, I intend to speak against the Honourable Kingsley SIT's motion as I am in favour of the Financial Secretary's amendment. But is it now my turn to speak?

HIS HONOUR THE PRESIDENT: Yes, you may speak to that.

MRS SO (in Cantonese): Sir, before I begin my speech, may I declare that there are commercial contacts between my company and individual tobacco manufacturers? But I would like to say that I am now speaking with complete impartiality.

In his Budget delivered in early March, the Financial Secretary substantially raised the duty on tobacco by 200% which sparked off strong response across the community. To move that the rate of increase in tobacco duty be lowered to 100% does not only comply with the wishes of the general public, but is also a means to counter inflationary pressure.

I am not a smoker and do not have any objection to the Government's anti-smoking policy all along. But this time, the imposition of a hefty increase on tobacco duty without adequate pre-evaluation of the effects on various fronts is a deviation from the principle of progression.

The fuelling effect of a hefty increase in taxes on prices at a time when inflation stands high should have been predictable. Originally, it was hoped that more smokers would be forced to stop smoking by increasing their financial burden. This method of "discouraging by means of tax levies", however, has deprived many people in the lower social strata of their only pleasure in life and aroused public indignation. Moreover, it has resulted in the smuggling in of cigarettes and the market is flooded with contraband cigarettes, the price of which ranges from \$10 to \$15 a pack. The contraband cigarettes have outclassed those fully taxed cigarettes in the market, the work pressure on government departments like the Customs and Excise Department

is on the increase, and revenue from tobacco duty will be less despite an increase in the duty rate. Another intention of raising the tobacco duty substantially is to make smoking less appealing to youngsters. But in reality, smoking has become another symbol of status and is a great temptation to many of our young people.

Nevertheless, the downward adjustment in tobacco duty increase is an intelligent move which should have certain deterrent effects on the easy availability of contraband cigarettes on the market.

The issue of tobacco duty increase has been a subject of disquiet for over two months and the dust should be settled today. The lesson to be learnt from this issue is that in the later half of the transitional period, the Government must adopt a progressive approach in its administration and avoid overacting.

Sir, with these remarks, I support the Financial Secretary's amended motion.

HIS HONOUR THE PRESIDENT: Mrs SO, the amended motion as put by the Financial Secretary has not yet been put. You were speaking then to Mr SIT's motion. Would you like to revise your final statement?

MRS SO (in Cantonese): Sir, I am opposed to the Honourable Kingsley SIT's motion.

FINANCIAL SECRETARY: Sir, I am speaking on Mr Kingsley SIT's proposed amendment. Let me make clear to Members the differences between the amendment motion moved by Mr Kingsley SIT and my resolution. I think in fact Mrs Selina CHOW has basically said it all. Mr SIT's proposed amendment will affect cigarettes only, as has just been said, and will in all respects have the same effect on the duty on cigarettes as my own resolution. It will not, however, as my resolution does, affect the duty rates on cigars, Chinese-prepared tobacco and other manufactured tobacco. This means that the 200% increase will still apply to these products. Moreover, unlike my resolution, Mr SIT's proposed amendment will have the effect that, pursuant to section 6 of the Public Revenue Protection Ordinance, one-third of the duty paid by tobacco wholesalers between 6 March 1991 and the coming into force of the amended resolution will have to be repaid to them. A number of Members have made that point.

For the reasons I have given before, this would be highly unsatisfactory and so I shall oppose Mr Kingsley SIT's proposed amendment.

Question on Mr SIT's amendment to the Financial Secretary's motion put and negatived.

HIS HONOUR THE PRESIDENT: Financial Secretary, do you wish to speak again?

FINANCIAL SECRETARY: Yes, Sir. Thank you, Sir. First, I would like to make clear to Members the purpose of the motion before them. We have been discussing this afternoon at some length the pros and cons of both motions, and we have been discussing the health aspects. The motion before Members at the moment is the motion to increase a number of duty rates under the Dutiable Commodities Ordinance. As I said at the outset, these duties include duties on hydrocarbon oils, alcoholic beverages, tobacco and cosmetics. Some Members have indicated that they will be voting against this motion because of their feelings about the proposed increase of duty on tobacco. But I hope, in fact, that they will vote for this motion on the understanding, of course, that I do, as I have undertaken to do, introduce what I believe is the fifth motion standing in my name on the Order Paper. So I do urge Members to vote in favour of this motion which implements a number of increases in duties under the Dutiable Commodities Ordinance. It is not limited to tobacco.

I have indicated, Sir, in my earlier speech, why I have chosen this particular method of proceeding, that is, by way of two separate resolutions. I have to safeguard the revenue collected between the 6 March and the 18 March when the resolutions will come into effect. Sir, I shall have more to say when I introduce the fifth motion bringing the duty on tobacco products down to the 100% increase. I would like to say at this stage that I welcome the remarks made by a number of Members, committing themselves and committing this Council to the health aspects of the proposed increase in tobacco duty. The increase that I proposed in the Budget was quite sincerely introduced for health reasons. I would certainly not have suggested an increase of 200% purely for fiscal purposes. The increase was designed to administer a shock to the smoking community, and I think I succeeded beyond my wildest dreams.

Some Members have accused me -- I think Mr Martin LEE in particular who, though, was kind enough to give me a copy of his speech, but I had better not mention too many Members because so many Members have said so much -- of wavering; another Member

accused me of hypocrisy. One thing that has struck me in the many happy years which I have spent in this Council is that if I had done nothing, I would have been accused, probably rightly, of pig-headedness; and if I do something, I am accused of wavering. The important thing is that together we make the right decisions.

Sir, some other Members have referred to smuggling. This is a very important point. It is important because I actually have some notes dealing with the subject; so I am able to speak with considerable authority. The first point I would make is that we are in fact proposing to take two measures to combat smuggling. First of all, we intend to restrict the duty-free allowance to a single trip each day. Secondly, we are intending to place increased controls on ships' stores which may be illegally re-imported. The Commissioner of Customs and Excise has action on these measures in hand. Since the Budget the Customs and Excise Department has allocated a high priority to combating cigarette smuggling and evasion in its various forms by redeploying resources. This has been possible because thought had already been given to the likely effects of a significant rise in tobacco duty and the major new trends, that is to say, additional use of duty-free concessions, increased smuggling by individuals, and the re-landing of export cigarettes from ships' stores. All these had been foreseen.

We have achieved significant success in combating these trends and we have done this through the redeployment of resources in a number of fields. These include the targeting and spot-checking of incoming travellers, the intensification of sea and harbour patrols, the stepping-up of inspections of retail outlets, and the more extensive use of verification checks on export cigarettes and ships' stores. We have achieved very high enforcement levels and the implementation of improved control has been a very considerable drain upon manpower, equipment and financial resources. But nevertheless, it has been done. So smuggling is certainly being addressed vigorously.

Sir, of course, most Members have referred, rightly, to the effect on inflation, or as I prefer to say, the Consumer Price Index. The two are not necessarily the same thing. I shall be saying more about this aspect when I introduce the second resolution because it is indeed the effect on the Consumer Price Index that has influenced us into introducing the second resolution into this Council today. Thank you, Sir.

HIS HONOUR THE PRESIDENT: As the amendment moved by Mr Kingsley SIT is negatived, I now put the question on the original motion moved by the Financial Secretary to you.

Question on the Financial Secretary's motion put and agreed to.

#### DUTIABLE COMMODITIES ORDINANCE

THE FINANCIAL SECRETARY moved the following motion:

"That with effect from 18 May 1991 paragraph 1 of Part II of the Schedule to the Dutiable Commodities Ordinance be amended --

(a) in sub-paragraph (a) by repealing "\$720" and substituting "\$480";

(b) in sub-paragraph (b) by repealing "\$930" and substituting "\$620";

(c) in sub-paragraph (c) by repealing "\$180" and substituting "\$120";  
and

(d) in sub-paragraph (d) by repealing "\$870" and substituting "\$580".

He said: Sir, I move the fifth motion standing in my name on the Order Paper.

As I have explained in my earlier speech moving the original motion, the purpose of this motion is to reduce the duty rates for tobacco that Members passed just now, so that they will stand at 100% more than the old duty rates in force before the Budget. I have already given the reasons and so I shall not repeat them at length.

I shall however, Sir, take this opportunity to comment on what many Members have said in the debate that we have had so far. We are faced with a considerable dilemma. The original increase in duty on tobacco products of 200% introduced on health grounds was designed to have an immediate and dramatic impact on smoking. The clearly stated intention was to reduce the incidence of smoking, particularly amongst young people.

The indications are that the strategy is starting to show results, with much anecdotal evidence of smokers having cut down on tobacco consumption. Members of

this Council may recollect that when a 300% increase in duty was introduced in 1983, demand for tobacco fell by 33%, and 40% for people in the 15-19 year age group. Thus, we know that a sharp increase in duty can work in Hong Kong, given the chance.

In the circumstances, I remain of the view that the original measure conceived on health grounds was correct. Indeed, the policies of the World Health Organization, and our own experience in 1983, have added weight to this view. I might add that no other measures that I have introduced in any of my previous Budgets have received as much worldwide support as the 200% increase in duty on tobacco products. Hong Kong has been congratulated for its courage and resolve in taking this measure by numerous international health organizations.

On the other hand -- this is the other part of the dilemma -- hardly surprisingly, the measure has provoked considerable opposition from certain sectors of the community, and this reaction has caused many Members of this Council, and indeed of the public generally, deep concern. The thrust of this concern centres around the effect the measure is predicted to have on the Consumer Price Index.

There is no doubt that an immediate decrease in the duty rates on tobacco products will have a beneficial effect on the CPI(A) in the short term, although there may be other factors that could disguise this effect. In the longer term the impact on inflation is not as straightforward. The basket of items making up the CPI(A) and their relative weightings are fixed. The index, therefore, not only fails to reflect the predicted reduction in demand for tobacco products, but also overstates the inflationary impact of the duty increase. Moreover, the whole point of the original increase has been overlooked; it sought to make tobacco more expensive, so that people -- young people in particular -- would give up smoking. The result is that, as tobacco becomes a less and less significant element in the CPI shopping basket, the weighting in the index will naturally fall, and the transitory inflationary effect for the small percentage of the smoking population will disappear.

In my view, what may well happen if the increase is halved to 100% is that the effect on the CPI, although smaller in percentage terms, will be more entrenched because a smaller number of people will give up smoking. In the longer term, if the increase in duty is halved to 100%, it is possible that less people will give up smoking than might otherwise have been the case, and the weightings in the CPI(A) may, therefore, not be revised as swiftly.

Sir, the whole subject on inflation is to be debated, as Members have indicated, in this Council on 29 May. That occasion will give Members and the Administration a further opportunity to consider what remedies exist. Clearly, the problem is serious. I do not underestimate it in any way whatsoever. It is necessary to signal now that we intend to tackle inflation. Members have singled out this one measure as a suitable starting point. As to the health aspects, a 100% increase in duty is still substantial, and this measure and what Members have said this afternoon will do much to focus minds on the need to pursue new anti-smoking measures. As I said, there is a dilemma, but I am sure that Members have reflected carefully on all aspects of the public interest.

Sir, I beg to move.

Question on the motion proposed.

MR MCGREGOR: Sir, I have only a few points to make. In my reply on 28 March to the Financial Secretary's Budget proposals of 6 March, I expressed serious concern that the proposed 200% increase in tobacco tax and the 1350% increase in tax on Chinese prepared tobacco were much too severe and should be reduced. At this stage I should say that I am a non-smoker and I do believe that smoking is harmful to health.

So is the kind of community shock caused by the huge increase in tax which was proposed for tobacco products. I thought in terms of its effect, not on inflation, although that was bad enough, but on one of the few pleasures that many working class people enjoy, that of smoking. Non-smokers may detest the habit, medical doctors may preach against it (whilst often smoking themselves) and even smokers admit that it is not the kind of habit they would wish their children to inherit.

The fact is however that this product, sold openly and without restriction in Hong Kong, which employs many thousands of people and which provides billions of dollars in revenue for the Government over a period of time, is enjoyed by over 700 000 people. If each smokes 30 cigarettes a day and if each packet of cigarettes were \$24 instead of \$12 (which has been the case up to now) then a working class smoker is paying \$550 a month now more than he paid immediately before the Budget. Even if he smokes only 20 cigarettes a day that still amounts to an extra \$350 each month. That is a large dose of indirect tax for a working class person to swallow.

The Financial Secretary has said that this huge increase was motivated by the need to protect public health. My feeling, and I do apologize for this, is that the increase was largely motivated by the need to raise revenue. If health was the reason, then tobacco products could have been taxed progressively each year at higher than the established inflation rate so that the tobacco trade and industry and all smokers in Hong Kong would have been adequately warned of the policy intention of the Government. It was the sudden shock of a 200% tax increase that raised the public hackles and brought about strong public reaction and complaint.

Since the Budget was introduced in early March I have examined ways to reduce these particular taxes to a more reasonable level -- and that was on a personal basis -- without affecting other tax increases proposed by the Financial Secretary for dutiable commodities. I also tried to ensure that there would be no question of refunding the tobacco companies for duties paid since the Budget.

I must also mention the work done by the ad hoc group of this Council set up under the Honourable LAU Wah-sum to examine various tax proposals. Their support by a large majority was echoed by the full Council with only a few Councillors not in favour.

I am indebted to those who advised me legally. Even so, it was not easy to find the right route. My first motion was ruled out of order. My second motion would have required repayments to the tobacco companies. My third apparently did the trick although the Financial Secretary neatly removed the need for it by agreeing to the duty reductions I was in fact seeking.

There should be no embarrassment or annoyance in the Government that these duties have had to be reduced. I believe this action by the Financial Secretary indicates an acceptance of the public will and therefore it suggests a higher level of response to public opinion than we have been accustomed to in the past. I have also to say that the fact that the majority of Councillors agreed that the increases in duties on tobacco products are too large strongly suggests that an error was made in the first place, an error that will now be rectified. The Financial Secretary need not feel that future Budget proposals may face similar treatment. This Council has never failed to support reasonable tax proposals.

Sir, with these few remarks, I support the motion which the Financial Secretary is introducing.



Question on the motion put and agreed to

5.16 pm

HIS HONOUR THE PRESIDENT: By now I suppose the few smokers among us would be desperate for a smoke (laughter). The rest of us will enjoy a healthy cup of tea. We will take a short break.

5.45 pm

HIS HONOUR THE PRESIDENT: Council will resume.

#### RATING ORDINANCE

THE FINANCIAL SECRETARY moved the following motion:

"That --

(a) with effect from 1 April 1991 the percentage prescribed for the purposes of section 18(1) of the Rating Ordinance is in respect of every tenement -

(i) in the Urban Council area -

(A) general rates 2.5%;

(B) Urban Council rates 3.0%;

(ii) in the Regional Council area -

(A) general rates 1.75%;

(B) Regional Council rates 3.75%;

(b) the prescribed percentage for the purposes of section 19(1)(b) of the Rating Ordinance in relation to the year beginning on 1 April 1991 and ending on 31 March 1992 is 25%; and

(c) with effect from 1 April 1991 the amount prescribed for the purposes of section 36(1)(1) of the Rating Ordinance is \$2,000.

He said: Sir, I move the sixth motion standing in my name on the Order Paper.

The purpose of this motion is to reduce the overall rates charge from 7.5% to 5.5% following the general revaluation exercise. As a result, the general rates charge in the Urban Council area and the Regional Council area will be 2.5% and 1.75% respectively, and the Urban Council and Regional Council rates percentage charges will be 3% and 3.75% respectively.

Secondly, this motion seeks to set the rate relief percentage point at 25 so that the annual rates payable by an individual ratepayer in 1991-92 will not exceed those payable in 1990-91 by more than 25%.

Thirdly, this motion seeks to set the minimum rateable value below which tenements will be exempt from assessment of rates at \$2,000.

The estimated additional yield to General Revenue in 1991-92 resulting from these proposals is approximately \$435 million. There are no staffing implications.

Sir, I beg to move.

At this point the following Members declared interest:

Mrs Elsie TU as member of the Urban Council;

Mr CHEUNG Yan-lung as Chairman of the Regional Council;

Mr LAU Wong-fat as member of the Regional Council.

Question on the motion proposed.

MR HUI (in Cantonese): Sir, in this year's tax and fee increases, the most wide-ranging impact has been caused by the increase in rates since all premises, whether self-owned or for rental purpose, are required to pay rates. Although I am aware of the reason for the 25% overall average increase in rates, as well as the relief

measures proposed by the Financial Secretary to soften the impact of the vastly increased rateable values, the increase in rates by as much as 25%, coupled with Government's plan to gradually phase out rent control, will certainly trigger off an adverse chain reaction especially under the threat of inflation. I am also worried that when this year's increase in rates is fully reflected in the Housing Department's next adjustment of public housing rentals, there will be even more vehement reactions from the public. I think since the lower classes are now being tormented by inflation, the drastic increase in rates will no doubt be like adding to the misfortunes of those who are already unfortunate. Therefore, I hope the Government will understand and sympathize with their hardship by suspending or introducing gradually the proposed increase.

On the other hand, members of the public should also realize that the main part of the rates charged by the Government is paid to the two municipal councils to finance the provision of recreational and cultural facilities, as well as the improvement of environmental hygiene each year. Therefore, the only way to reduce the tax burden is to prune expenditures of the two councils. In so doing, the public will have to live with the likelihood that no marked improvement to existing services will be forthcoming in the next few years. While I have no intention to ask the two councils to turn the clock back, the public should be given the right of choice.

MR PANG (in Cantonese): Sir, I objected to the 1991-92 Budget when this Council moved its Second Reading because the Government has not only failed to mete out effective measures to curb the runaway inflation, but has also taken the lead in touching off a spate of increases and suppressing wages, thus adding to the burden of the ordinary citizens.

All premises including rental public housing, whether commercial or domestic properties, and whether self-owned or for rental purpose, are required to pay rates. Rates were increased by 25% last year. Though rates have been lowered by two percentage points this year, the current revaluation exercise will lead to a real increase of 25% in rates for ratepayers. Sir, I really find it hard to support the Government's move to increase rates each year. If people cannot live in peace and contentment, how can they enjoy their work? The increase in rates will certainly trigger off a rent spiral. With speculative activities continuing to push up rents and property prices, rates will in turn be increased as they are charged according to the rateable value of property.

Sir, I have spent a great deal of time on going through the speeches of Honourable Councillors delivered during the Second Reading debate. More than 10 Councillors, including myself, talked about the question of rates in their speeches, pointing out that excessive rates would not only harm the people's livelihood, but also cause the inflationary trends to deteriorate. Although a 25% increase may not be as eye-catching as a 200% increase, which has forced the Financial Secretary to amend his own tax proposal, why does the Financial Secretary not consider amending the rates proposal as well? This is because while the citizens can afford not to smoke, they cannot afford to do without a dwelling place. I hope that the Financial Secretary will consider reducing the percentage rates charge further.

With these remarks, Sir, I shall abstain from voting.

MR POON CHI-FAI (in Cantonese): Sir, although the overall rates charge has been reduced by 2% following the revaluation exercise and the annual rates payable by ratepayers next year will not exceed those payable this year by more than 25%, however, the substantial increase in the rates charge has not only imposed heavy financial burden on the lower income group but also generated a chain of price spirals and aggravated the inflation problem as well. The swift rise in the production cost and prices has made local goods less competitive, thus serving a blow to the economic development of Hong Kong and weakening the purchasing power of the middle and lower income group and lowering their living standard as well. Tenants of public housing and Home Ownership Scheme (HOS) flats are most seriously affected by the revaluation of property value.

Sir, all along, the Government has been emphasizing that it will resolve the housing problem faced by the middle and lower income group and provide them with housing units that they can afford to live in. The achievement made in our public housing scheme is here for all to see and has won universal acclaim. Sir, since it is the policy of the Government to build public housing units with low rental charge and HOS flats at a value lower than the market price for the middle and lower income families, why has it proposed such a considerable increase in rates charge also payable by these people? Sir, although I do not agree that the value of HOS flats should be linked up to market price, I would also like to point out that since the Administration has implemented a measure under which the rental charge of public housing units does not follow the market rent and the value of HOS flats is assessed

to be 70% of that of neighbouring private properties while the public housing rental flats offered for sale to sitting tenants are at about 60% of that of neighbouring HOS flats for the benefits of the middle and lower income families, why has it not adopted the same method of calculation in the reassessment of rates? Sir, as for those public housing and HOS flats which are located in the vicinity of prestigious premises, such as the Lok Wah Estate near the middle and high class residential premises at Crocodile Hill in Kwun Tong, the Sui Wo Court adjacent to Bik Ha Garden in Sha Tin and the Lam Tin Estate adjoining Sceneway Garden in Kwun Tong of which the value has recently gone up promptly, if the value of these public housing or HOS flats are assessed in reference to the price and rental charge of their neighbouring premises as now, the tenants with income at middle and lower level will find the rates charge assessed in the recent and future revaluation exercises hard to afford. This goes against the principle of equity. Sir, one of the major factors that the Administration bases on in considering the increase in rental charge for public housing flats is the rise in the rates charge by the Rating and Valuation Department and the market value and the market rent of private premises. The substantial increase in rates charge will consequently lead to a considerable rise in the rental charge for public housing flats and impose heavier burden on the majority of public housing tenants with lower income.

Sir, since the substantial increase in rates charge will give rise to a chain of price spirals and aggravate the inflation problem, thus producing detrimental effects to the livelihood of Hong Kong people and the economic development of the territory, the Administration should face the reality by reducing the rates and should also appreciate the hardship that the tenants of public housing and HOS flats suffer and no longer set the rates charge for public housing and HOS flats on the basis of the value of their neighbouring private premises.

Sir, based on the above reasons and because of the far-reaching effect of this tax hike on public housing tenants and HOS flat owners, I oppose the motion.

MR TAI: Sir, in our free market economy coupled with a tight labour situation and against the background of high inflation, the revaluation of property value and the increment of actual rates payable imposes additional heavy financial burden on the people of Hong Kong. This affects all walks of life bearing in mind the fact that it affects all forms of properties and the rates relief percentage is set only at 25%. The degree of hardship suffered varies. If this measure being taken is one of a deflationary nature, as has been claimed by the Financial Secretary during question

time this afternoon, I question the wisdom of the Financial Secretary in reducing the tobacco duty to 100% as being an anti-inflationary measure. If one compares the inflationary impact relating to the two measures, I would say that this motion has a greater implication. Sir, the relief percentage offered is, I consider, too high and this motion is inflation-fuelling and is inequitable. Therefore, Sir, I oppose the motion.

MR TAM (in Cantonese): Sir, although the overall rates charge is proposed to be reduced by the Government, yet with the substantial rise in rateable values the ratepayer will still have to pay more in money terms. Faced with a crisis of runaway inflation, the capping of rates increases at 25% as proposed by the Government is, in my view, overly high and should be set at a much lower percentage point. The hefty rise in rates will on the one hand add to the burden of ratepayers and on the other act as a stimulant to the present inflationary spiral. What is most worrying is that the lead taken by the Government to increase taxes and fees may set an example for the business sector and public corporations to follow. They will have a ready excuse to jump on the bandwagon of increasing fares and charges. The present high rate of inflation is already posing as the Number One Enemy to Hong Kong's economy and the livelihood of its people. The Government should not further fuel inflation. If it does, the Government's avowed determination of combatting inflation will be open to doubt.

Sir, for the above reasons, I do not support the motion moved by the Financial Secretary.

MR MICHAEL CHENG (in Cantonese): Sir, the overall average increase in rates will be 85%. Although there will be a cap on rates increases set at 25% for the year 1991-92, it will not offer much relief to most ratepayers who will have to pay more any way. This will add to the burden of the people of Hong Kong and to many of them it will be a cut to the quick. Personally, I would suggest that rates increases should not exceed 15% each year, which in fact is already higher than the current rate of inflation. My suggestion that yearly rates increases should not exceed 15% is based mainly on considerations that there are already hefty increases on a number of indirect taxation items for the year 1991-92 which will add substantially to the burden of the people of Hong Kong. I expect that indirect taxes will continue to be raised year after year. If yearly rates increases are set at a level commensurate

with the means of the general public, it will lighten their burden to a significant extent and will be a positive help in suppressing inflation. It will also indirectly help to halt the abrupt surge in property prices; this will make it easier for people of moderate means to buy a home and also ease the burden on lower-income public housing tenants.

6.00 pm

HIS HONOUR THE PRESIDENT: It is now six o'clock and under Standing Order 8(2) the Council should adjourn.

ATTORNEY GENERAL: Sir, with your consent, I move that Standing Order 8(2) should be suspended so as to allow the Council's business this afternoon to be completed.

Question proposed, put and agreed to.

MR LAU WAH-SUM (in Cantonese): Sir, the Financial Secretary has proposed to reduce the charge to rates from 7.5% to 5.5% and to introduce a rate relief scheme which limits the increase in rates payable in the year 1991-92 to 25% of the amount payable in the year 1990-91. Undoubtedly, this scheme helps alleviate the initial effects of the increase in rateable values on the public. However, with the values of real estates ever rising, the rateable values also keep soaring. The residents simply cannot help worrying about the burden of paying rates. The inflation rate is so high now that everyone is worried. An increase of 25% will certainly stimulate the inflation rate. To ease the worries among the public, the Government should extend the rate relief scheme to another year. By so doing, the increase in rates payable in the year 1992-93 will also be limited to 25% of the amount payable in the year 1990-91. The effects of inflation on the public would then be somewhat eased.

Sir, with these remarks, I support the motion.

FINANCIAL SECRETARY: Sir, this is a somewhat difficult issue. I think it is most important that Members should fully understand the nature of this motion. As I said when introducing it, the purpose is in fact to reduce the overall rates charge from

7.5% to 5.5%. If Members voted against this motion, that reduction would not be effected. Similarly, the motion seeks to set the rate for relief percentage point at 25%. Again, if this is defeated, there would not be that cap on the rates and ratepayers will in fact find themselves paying more for rates.

If I could give Members some information in answer to the points they made. Of course, like everyone in this Chamber, I am extremely concerned about inflation. The subject was briefly canvassed in our earlier debate on tobacco tax, and in the forthcoming debate on 29 May we will be looking at inflation at some depth. We will be considering what remedies there are open to us. The subject is not at all easy. The effect on inflation -- and, I again emphasize, on the Consumer Price Index -- of the rating measures that I have introduced is in fact only 0.5%. But still it is 0.5% and I accept that no one likes to see any effect at all. But I think one has to bear in mind that the last reassessment before this one was in 1988. Property values have gone up considerably since then and the reassessment, as I explained in my original Budget speech, resulted in a very considerable upward movement in property values which would have led to considerably increased rates. What I sought to do in the Budget for the purpose of this resolution is to try to ameliorate that impact to some extent. As far as domestic ratepayers are concerned, in fact only 30% will pay 25% more; 64% of domestic ratepayers will pay in fact less than 25% by way of increase; and 6% of domestic ratepayers will pay less rates than they did before.

As I say, I did not like to see people having to pay more at all. But equally as far as rates are concerned, as I explained in answer to a question earlier on, they depend on property values; property values have gone up and so inevitably people are going to have to pay more by way of rates.

As far as public housing tenants are concerned, the general level of inclusive rents charged by the Housing Authority is determined upon review after considering various factors such as rates increases. This is most important on the basis of affordability so that the monthly payments by public housing tenants will not exceed 15% of the median income for the estate.

The results of the various measures in relation to rates that I have proposed, as far as public housing tenants are concerned, will be that the average cost of the increase for a Housing Authority flat will be around \$19 per month, as Members may recollect. For small flats in the private sector -- non-Housing Authority flats -- it will be an increase of \$38 per month. I agree it is an increase but the increases



in fact are not hefty, as one Member suggested.

I do commend this motion to Members because in fact it seeks to ameliorate the situation that would otherwise have applied if I were not moving this motion. It does reduce the percentage charges and it puts a cap on the rates actually payable by individual ratepayers.

Sir, I beg to move.

Question on the motion put and agreed to.

First Reading of Bills

LOANS (AMENDMENT) BILL 1991

INLAND REVENUE (AMENDMENT) (NO. 4) BILL 1991

STAMP DUTY (AMENDMENT) (NO. 2) BILL 1991

ADMINISTRATION OF JUSTICE (FELONIES AND MISDEMEANOURS) BILL 1991

WASTE DISPOSAL (AMENDMENT) BILL 1991

EDUCATION (AMENDMENT) BILL 1991

PENSIONS (SPECIAL PROVISIONS) (VOCATIONAL TRAINING COUNCIL) BILL 1991

Bills read the First time and ordered to be set down for Second Reading pursuant to Standing Order 41(3).

Second Reading of Bills

LOANS (AMENDMENT) BILL 1991

THE FINANCIAL SECRETARY moved the Second Reading of: "A Bill to amend the Loans Ordinance."

He said: Sir, I move that the Loans (Amendment) Bill 1991 be read the Second time.

In my Budget speech this year, I said that a well structured and managed borrowing programme through the issue of short-term government bonds would now be appropriate for Hong Kong. I also announced my intention to start the programme of government bonds with issues of two or three year maturities. Let me stress again that the proceeds of this borrowing programme will be used only for capital projects and that we will not, under any circumstances, be borrowing to fund recurrent expenditure.

The Bill seeks to empower the Government to issue bonds, promissory notes or other instruments in a paperless form. Our successful experience with the Exchange Fund Bills market points clearly to the advantage of a paperless market. The computerized register of Exchange Fund Bills makes transfer of bills between accounts quicker.

As a result, an active and hence liquid market is created. This, in turn, lowers borrowing costs. It is both cost-effective and logical for government bonds to be issued in paperless form. Indeed, markets for government debts in leading financial centres are gradually moving to paperless systems.

The Bill also seeks to empower the Financial Secretary to exclude agreements related to the bonds, promissory notes or other instruments from the statutory requirement that a copy of a loan agreement between the Government and a lender be tabled in this Council. Without this amendment, a document setting out the terms and conditions on which the bonds are issued and the names of the subscribers and details of their bids would have to be laid before this Council. For commercial reasons, potential subscribers will not wish to make such information public, and this would inhibit the development of the bonds programme.

Sir, I move that the debate on this motion be now adjourned.

Question on the adjournment proposed, put and agreed to.

INLAND REVENUE (AMENDMENT) (NO. 4) BILL 1991

THE FINANCIAL SECRETARY moved the Second Reading of: "A Bill to amend the Inland Revenue Ordinance."

He said: Sir, I move that the Inland Revenue (Amendment) (No. 4) Bill 1991 be read the Second time.

This Bill seeks to exempt from tax any interest or profits arising from bonds issued under the Loans Ordinance. This is in line with our previous practice that such exemptions are allowed for government bonds and the Exchange Fund Bills.

Potential loss to revenue resulting from the profits tax exemptions cannot be estimated at this stage, but it is not expected to be significant. The Bill has no staffing implications.

Sir, I move that the debate on this motion be now adjourned.

Question on the adjournment proposed, put and agreed to.

STAMP DUTY (AMENDMENT) (NO. 2) BILL 1991

THE FINANCIAL SECRETARY moved the Second Reading of: "A Bill to amend the Stamp Duty Ordinance."

He said: Sir, I move that the Stamp Duty (Amendment) (No. 2) Bill 1991 be read the Second time.

This Bill seeks to amend the definition of "stock" in the Stamp Duty Ordinance in order to exempt bonds issued under the Loans Ordinance from stamp duty. This is in line with our previous practice that such exemption is allowed for government bonds and the Exchange Fund Bills.

Potential loss to revenue resulting from the exemption again cannot be estimated at this stage, but it is not expected to be significant. The Bill has no staffing implications.

Sir, I move that the debate on this motion be now adjourned.

Question on the adjournment proposed, put and agreed to.

## ADMINISTRATION OF JUSTICE (FELONIES AND MISDEMEANOURS) BILL 1991

THE ATTORNEY GENERAL moved the Second Reading of: "A Bill to abolish the division of offences into felonies and misdemeanours; to amend and simplify the law in respect of matters related to the abolition of that distinction; and for connected purposes."

He said: Sir, I move that the Administration of Justice (Felonies and Misdemeanours) Bill 1991 be read a Second time.

The Bill is designed to abolish what is today a purely formal distinction between offences termed felonies and misdemeanours.

In the early days of English legal history, certain serious offences against the person and property were considered to be so heinous as to warrant prosecution by the Sovereign with special forms of procedure. These offences were called felonies and included murder, manslaughter, housebreaking, rape and larceny. They were all punishable with death and confiscation of all property. Other lesser crimes not carrying the death penalty were prosecuted under less rigorous procedures and were known as misdemeanours.

Law reforms in the nineteenth century in England removed the death penalty for all felonies except murder, and most of the forfeiture provisions attaching to conviction of felony were also removed. At the same time, some of the procedural features of trials of felonies were ameliorated so that trial of felonies began to resemble trial of misdemeanours.

The distinction between the two classes of offence was abolished in England and Wales by the enactment of the Criminal Law Act 1967 which implemented the Seventh Report of the Criminal Law Revision Committee. As that Committee remarked, the distinction between felonies and misdemeanours had become "archaic" and "complicated the law unnecessarily" because many serious offences were misdemeanours but there were some felonies which were relatively minor offences.

In 1986, a Working Party was appointed by my predecessor to review the Magistrates Ordinance and criminal procedure generally. The Working Party observed that the classification of offences as being either felonies or misdemeanours in Hong Kong appeared to be defunct and served no useful purpose. In May 1987, they produced a report recommending that the distinction be abolished. A thorough search through

the whole of the Laws of Hong Kong was then instituted in order to identify provisions which either specifically referred to felonies and misdemeanours or depended upon a distinction being made between them. The search was completed last year when the Bilingual Laws Information System on the Ordinances of Hong Kong was set up, thus paving the way of the Bill to be drafted.

Abolition of the distinction will provide the opportunity to simplify and modernize the criminal law while eliminating a distinction which no longer serves any useful purpose. Clause 2 of the Bill effects the abolition of the distinction and provides that the law and practice applicable to offences hitherto described as misdemeanours shall in future apply in the case of every offence. Clause 3 is a general adaptation provision which proposes the classification of offences as felony or misdemeanour in legislation with the single term "offences". There are three Schedules to the Bill which provide for amendments to other Ordinances as a result of the abolition of the distinction between felony and misdemeanour. I should therefore state that further amendments to the provisions in the Schedules, which are technical in nature, will be introduced at the Committee stage.

Sir, I move that the debate on this motion be now adjourned.

Question on the adjournment proposed, put and agreed to.

#### WASTE DISPOSAL (AMENDMENT) BILL 1991

THE SECRETARY FOR PLANNING, ENVIRONMENT AND LANDS moved the Second Reading of: "A Bill to amend the Waste Disposal Ordinance."

He said: Sir, I move the Second Reading of the Waste Disposal (Amendment) Bill 1991.

In the White Paper on Pollution the Government acknowledged that there was an urgent need to tighten up the control of chemical waste. The rapid development of industry in Hong Kong's recent past, while contributing to Hong Kong's prosperity and growth has at the same time had a severe impact on the environment. There has been a significant growth in production of waste in Hong Kong over the past 10 years. In 1981 it was estimated that about 40 000 tonnes of chemical waste was produced annually. This figure has now risen to 100 000 tonnes. This waste includes acids, alkalis, toxic metal salts, organic solvents and oily wastes. Much of this has been

and continues to be disposed of without any proper control. The coastal waters around the territory are now severely polluted and the sea-bed heavily contaminated with toxic wastes. This contamination, through its potential for entry into the food chain, poses a threat to the health of the community. The uncontrolled disposal of chemical waste has been one of the main contributory factors.

The Waste Disposal Ordinance is the principal piece of legislation concerned with the collection and disposal of waste. It provides a basic statutory framework for the control of various types of waste, but significantly some of the more critical sections have not been brought into operation because it would not have been practicable to enforce them, particularly with respect to chemical waste. One of the purposes of the Bill before the Council today is to enable these sections to be brought into operation in respect of chemical waste.

While the Ordinance provides the basic framework, it is also necessary to refine and extend that framework to provide for a scheme of control for chemical waste that will ensure the proper handling of such waste from its point of production or importation to its point of final disposal. This approach will require chemical waste producers to be registered, and for waste collectors and disposal facilities to be licensed. It will include a "trip-ticket" system to monitor individual consignments of chemical waste and requirements relating to the storage, packaging and labelling of waste. It will be a comprehensive scheme of control of the kind similar to those already adopted in many countries around the world.

The controls I have just outlined constitute one element in the strategy for the proper management of chemical waste. The other vital element is the facilities. The main impediment to the introduction of effective and enforceable controls in the past has been the lack of suitable facilities for the treatment and disposal of chemical waste. Up until now the main public facilities available have been the co-disposal facilities at the Tseung Kwan O landfill. These can accommodate limited quantities of oily wastes, asbestos and certain other wastes. The private sector also undertakes some small-scale commercial recycling and recovery operations (such as oil and precious metals). In December 1990, however, a contract was signed with a private sector consortium for the provision of centralized chemical waste treatment facilities on Tsing Yi. The contract includes the design, construction and operation, and the contractor of the facilities, as part of the operation, will be offering a waste collection service to waste producers. The facilities will be commissioned in stages with the first stage, the collection and storage service due to commence

in autumn 1992. Once they are fully commissioned at the end of 1992, the chemical waste treatment facilities should be able to handle virtually all of Hong Kong's chemical waste. With the development of adequate, suitable disposal facilities underway the Government is now in a position to proceed with the regulatory controls.

Our intention is to implement these controls chiefly through chemical waste regulations made under the Ordinance. The Bill will have little immediate practical effect but it provides for the powers, including new regulation-making powers, to achieve the necessary statutory framework.

Turning to the main provisions of the Bill -- currently, the application of the Ordinance to chemical waste is not specifically provided for. This is addressed in clauses 4, 5 and 6 of the Bill which confirm the application to chemical waste of the sections relating to the licensing of waste collectors, the prohibition on unlicensed collectors and the prohibition on the unauthorized disposal of wastes (sections 10, 11 and 16 of the Ordinance respectively).

The Bill provides for the Director of Environmental Protection to be the sole collection authority for chemical waste under the Ordinance. The Director is already the waste disposal authority for all types of wastes. The same clause (clause 3) provides for a definition of "chemical waste" to be prescribed by regulations. The difficulty of finding a simple definition for this term has been recognized widely by legislators who have sought to regulate chemical waste. Whether or not a particular waste should be regarded as chemical waste may depend upon the form and concentration of that waste. By providing the detailed definition in the regulations we will have a degree of flexibility to enable us to refine and develop that definition in the light of practical experience and changes in knowledge, expectations and standards.

While it is not the intention to prohibit all in-house treatment facilities, we would want to ensure that these meet certain minimum standards. Clause 9 of the Bill enables these minimum standards to be specified in regulations.

The major amendment proposed by the Bill is the extension of the regulation-making powers to provide for the different elements in the scheme of control that I have outlined. It is proposed that regulations will be made to provide for inter alia the definition of chemical waste (including exclusions from this); the registration of waste producers and related matters; requirements relating to storage,

packaging and labelling of waste; procedures and requirements relating to the collection, transportation, import and export and disposal of waste; the duties of persons engaged in producing, collecting or disposing of waste; and the prescription of those particularly difficult or hazardous wastes which must be disposed of in accordance with the instructions of the Director of Environmental Protection under section 17 of the Ordinance. In addition, the Director will be empowered through regulations to exclude waste which does not constitute a danger to health or an environmental risk from the definition of chemical waste; to issue documents and require information in relation to the production, movement and disposal of waste, to approve arrangements for disposal, and require the removal of waste which constitutes a danger to health or risk of pollution.

At the same time, the existing penalties for contraventions of the regulations and for certain of the offences under the Ordinance need to be updated and to reflect the seriousness of those offences. We are therefore proposing increases in the ceiling for fines as appropriate.

We envisage that there may be a need to bring the controls into effect in stages -- at different times for different types of waste. Where facilities for disposal already exist, it may be desirable that the controls should apply earlier than for other types of waste. The phased application of certain sections of the Ordinance and the regulations to different wastes are therefore also provided for in the Bill.

The proposed new section 39 of the Ordinance extends the liability for prosecution to individual directors and managers of a company where offences committed by that company were committed with their consent or connivance or through their neglect. This is consistent with the provisions of the Water Pollution Control Ordinance, as amended.

With regard to timing, consultation with industry on the scope and details of the proposed regulations is being undertaken. Once this has been completed, we will make any necessary adjustments before submitting the regulations to this Council at the beginning of the next Legislative Session, with a view to implementing the first stage of the controls around the end of the year. The registration of chemical waste producers is likely to take a few months. There are estimated to be over 10 000 producers in Hong Kong. The process of registration needs to begin early next year to enable the scheme of control to be fully implemented by the time the contractor for the chemical waste treatment facilities is ready to commence his collection



service -- and it is important that the legislative controls are in operation by that time.

Sir, this is an area of environmental protection where we can and must make substantial improvements. I move that the debate on this motion be now adjourned.

Question on the adjournment proposed, put and agreed to.

#### EDUCATION (AMENDMENT) BILL 1991

THE SECRETARY FOR EDUCATION AND MANPOWER moved the Second Reading of: "A Bill to amend the Education Ordinance."

She said: Sir, I move that the Education (Amendment) Bill 1991 be read a Second time.

Under Section 86 of the Education Ordinance, it is an offence for any person who is not a registered or a permitted teacher to teach in a school. The person who employs or permits him to teach also commits an offence.

It has been the established practice of the Education Department to allow a prospective teacher to teach while his application for registration is being processed. This is because teaching vacancies often occur at short notice and it is desirable on educational grounds for the employment of replacement teachers to commence without delay. However, the current practice is technically in breach of the provision under the Ordinance.

The Bill removes the anomaly by introducing a deeming provision which enables a person to teach while his application for registration is being processed. In order to avoid any attempt to circumvent the proposed new arrangement, the period of exemption will be limited to no more than six months and will apply only to first applications.

Sir, I move that the debate on this motion be now adjourned.

Question on the adjournment proposed, put and agreed to.

PENSIONS (SPECIAL PROVISIONS) (VOCATIONAL TRAINING COUNCIL) BILL 1991

THE SECRETARY FOR EDUCATION AND MANPOWER moved the Second Reading of: "A Bill to make provision as regards the pensions of certain officers transferred from service under the Government to the service of the Vocational Training Council."

She said: Sir, I move that the Pensions (Special Provisions) (Vocational Training Council) Bill 1991 be read a Second time.

When the Vocational Training Council (VTC) was established in 1982, it was initially staffed by civil servants on secondment and, later on, also by staff directly recruited by the VTC. This mixed staff situation has given rise to difficult management problems. Following a review, the Government has decided to offer a number of options to the civil servants involved with a view to encouraging them to transfer to the employment of the VTC.

One of the options is the "mixed service pension" arrangement which would enable the civil servants involved to preserve their pension rights after transferring to the VTC. Under this arrangement, a civil servant's total length of service for the purposes of pension accrual would be the sum of his service with the Government and the VTC. The Bill seeks to provide the necessary statutory basis for this arrangement.

Sir, I move that the debate on this motion be now adjourned.

Question on the adjournment proposed, put and agreed to.

MOTOR VEHICLES (FIRST REGISTRATION TAX) (AMENDMENT) BILL 1991

Resumption of debate on Second Reading which was moved on 17 April 1991

Question on Second Reading proposed.

MR ANDREW WONG (in Cantonese): Sir, I speak against the Motor Vehicles (First Registration Tax) (Amendment) Bill 1991 for the following two reasons.

My first reason concerns private cars. Private cars are now divided into three groups for tax purposes. The first group, the basic group, is defined as those with

a CIF price not exceeding \$30,000. The second group, the semi-luxury group, is those with a CIF price exceeding \$30,000, but not exceeding \$60,000. The luxury group is those with a CIF price exceeding \$60,000. I believe that such a division is obsolete because no one, I presume, will acquire a private car which comes under the category of the basic group, and I also wonder if any Member in this Chamber today whose car is not of the luxury group. So I think that the matter should be reconsidered.

However, this is not the main reason for my opposition to the Motor Vehicles (First Registration Tax) (Amendment) Bill 1991. What I really oppose is the question of van-type light goods vehicles. The tax charged for both van-type light goods vehicles and other goods vehicles is, according to the existing rate, the same, that is 25% of the CIF price. According to the Financial Secretary's proposal, there will be three groups of goods vehicles after the full implementation of the Bill. The rate of tax will be increased from 25% to 35% of the CIF price for all goods vehicles, but van-type light goods vehicles will be divided into two groups: those not exceeding 1.9 tonnes permitted gross vehicle weight and those exceeding 1.9 tonnes. The tax for the latter will be increased from 25% to 50% while that for the former from 25% to 90%.

Sir, I have done some researches on tax increase vis-a-vis CIF price for goods vehicles and I gather that such a rate of increase is completely ineffective in respect of lessening speeding cases and accidents involving van-type light vehicles. I do not want to name the brands of the vehicles. Both groups are from Japan. The present price for those exceeding 1.9 tonnes and with diesel engines is \$96,900, and that for those not exceeding 1.9 tonnes is \$81,900. In other words, the difference in price is \$15,000. Now, because the rate of tax for those exceeding 1.9 tonnes is only 50% while that for those not exceeding 1.9 tonnes is 90%, the difference in price will only be \$6,500. This is the case with the first brand. The situation is similar with regard to the second brand. I am referring to those with diesel engines. The present price for those exceeding 1.9 tonnes is \$124,700, and those not exceeding 1.9 tonnes is \$104,300. The difference in price is \$20,400. When the new rate of tax comes into force, the new price for those exceeding 1.9 tonnes will be \$138,000, and those not exceeding 1.9 tonnes will be \$130,000. The difference in price will be \$8,000. In other words, the difference in price will be reduced from \$20,400 to \$8,000. This is the case with the second group of vehicles. I think that such a method of taxation is not quite proper. If a driver wants to "speed", he will probably prefer a vehicle with greater horse-power. Besides, the difference in price will be smaller, only \$6,500 or \$8,000.

The same is true of vehicles with petrol engines. I think that if the intention behind the proposed measure is to discourage young drivers from speeding, the effect, on the contrary, will be that they change to vehicles with greater horse-power, possibly resulting in more serious problems. I think that if the desired effect is to be achieved, the better approach is not the one doing with taxation (since the tax rate may be set at 50%, 35% or 25% for all classes of vehicles). The better approach is to find out whether regulations can be made to require that there shall be only one row of seats in a van-type light goods vehicle and that no rear seats shall be added.

Sir, I must declare that I am not an interested party. There may be people who think that I have interest. The vehicle I own is a private van, not a van-type goods vehicle. I have paid tax for it at the same rate as that for a private car. I merely want to point out again that this proposal will not be effective.

For the above reasons, Sir, I am against the motion for the Second Reading of the Motor Vehicles (First Registration Tax) (Amendment) Bill 1991.

MR PAUL CHENG: Sir, as a director of Inchcape Pacific, I must again declare my interest as our company is a leading marketer of motor vehicles. I must also say how impressed I am by my honourable colleague the Honourable Andrew WONG's knowledge of the subject; I think I may even consider hiring him as a consultant to our company.

The first registration tax, as a revenue generator, is reaching an unreasonable level. As a measure for effective transport policy, it simply does not work. If the emphasis remains on taxing the private motorist with each budget cycle, by the year 2 000 Hong Kong will in all likelihood rank as the most expensive city in the world in which to own and drive a car. During the last 10 years Government has raised the first registration tax on vehicles between 150% on goods vehicles to 500% on vans and cars. The Hong Kong Automobile Association has data showing that increasing taxes on the private motorist does not in the long term reduce the volume of vehicles on the road. It has also been proven in cities such as Singapore where high taxes have not reduced the number of people purchasing and using cars.

May I reiterate my earlier comments that we need a co-ordinated longer-term vision in budgetary planning.

Sir, with these remarks, I will abstain from voting on the Bill in view of my association with a leading importer of motor vehicles.

FINANCIAL SECRETARY: Sir, it is becoming apparent to me during the course of this afternoon that taxes are not terribly popular but increases in taxes are even less popular. The problem with taxes on motor vehicles is simply this: that roads are in comparatively short supply. The more people who use roads, the greater the pressure on those roads and if one should have regard to the laws of the market place, it seems quite reasonable to impose higher charges. There is, of course, the deterrent effect of increases in taxation on motor vehicles. Mr Paul CHENG has said that it does not work. Our experience over the years is that there is usually some short-term effect when we increase taxes dramatically. We consider the increases this year in careful co-operation with the Secretary for Transport. We believe that what I have proposed in the Budget is reasonable. Again, the taxation measures in relation to vans were designed to address a particular problem. We believe that what we have done will work. We will assess it during the course of the year and if further action needs to be taken, it will be taken. But I adhere to the proposal that I have put and I again beg to move.

Question on the Second Reading of the Bill put and agreed to.

Bill read the Second time.

Bill committed to a Committee of the whole Council pursuant to Standing Order 43(1).

FEES INCREASE (1991 BUDGET) BILL 1991

Resumption of debate on Second Reading which was moved on 17 April 1991

Question on Second Reading proposed.

MR CHEUNG YAN-LUNG (in Cantonese): Sir, in my Budget debate speech this year, I warned the Government that the decision to raise the transfer of vehicle ownership fee from \$50 to \$1,000 would lead to strong opposition as well as great grievances. If this measure is implemented, those who genuinely need a motor vehicle due to the geographical separation between their home and place of work will be hard hit and

people living in the New Territories will bear the brunt. Thus, while I support a lowering of the vehicle ownership fee, I still consider that a fairer approach is to impose the fee increase on an ad valorem basis according to the years of usage of the vehicle.

MR HUI (in Cantonese): Sir, concerning this Bill, I would like to pinpoint the massive increase of transfer of vehicle ownership fee for "all other vehicles". Given the economic performance of Hong Kong in the present day, we all know that owning a car is no longer a "status symbol" to the citizens. Indeed, apart from those professional drivers who need a car to earn their living, many people sacrifice other luxuries in life in order to buy a car because they find it difficult to put up with crowded public transport. It is absolutely unreasonable for the Government to increase the transfer of vehicle ownership fee heftily instead of monitoring public transport companies to improve their services.

In fact, the second-hand car market can help reduce car owners' burden in buying new cars while the second-hand property market is the breeding ground of property speculation. Yet, we find it unconvincing that the Government has never done anything to deal with the latter to curb property speculation. Besides, the hefty increase of transfer fee will definitely give rise to higher transport cost which will then be passed onto the average public, adding to their burden of life.

On the other hand, as far as Government's fees and charges policy is concerned, I have all along considered that apart from those social services which have to be subsidized by the Government, it will give no cause for criticism if the Government wants to recover the costs for the other services. However, the sharp increase of transfer fee from \$50 to \$1,000 in one stroke really defies our imagination because if the cost is \$1,000, then has not the Government been very generous with taxpayers' money in subsidizing these car owners? From this, we can see that the increase of 1 900% proposed by the Financial Secretary is completely in lack of numerical backing. I hope that the Government will respond to public feeling and lower the charge to an acceptable level.

MR MICHAEL CHENG (in Cantonese): Sir, the fee for transfer of ownership in motor vehicles is proposed to be increased drastically from \$50 to \$1,000, that is, an increase of 1 900%. This will on the one hand seriously affect the selling and buying

of second-hand motor vehicles and on the other hand add to the burden of those who are in genuine need of a motor vehicle for use. I do not accept the explanation given by the Government that a motor vehicle is a luxury item. As a matter of fact in present-day Hong Kong a vehicle owner has to shoulder a heavy burden in the form of high insurance premium, fuel costs and licence fees. People buy motor vehicles only when there is an imperative need. This is particularly so in respect of second-hand vehicle buyers. Most people would undoubtedly want to buy new vehicles but are often obliged to buy used ones because of insufficient means. I am puzzled as to why the Government is singling out these people to "rip off" from. A 19-fold increase in ownership transfer fee will add heavily to the financial burden of these people, which is unfair to them. I would here suggest a more reasonable scale of fees, namely, a four-fold increase from \$50 to \$200 and for motor cycles and tricycles a two-fold increase from \$50 to \$100.

Sir, I oppose this Bill.

FINANCIAL SECRETARY: Sir, there is a point I think I should clarify in the light of what Members have said about the steepness of the increase in the fee. In fact what I was doing in the Budget, as Members will recollect, was tax-loading the fee. I think it is quite misleading to say that the fee went up by a certain percentage. The point is that the fee is now tax-loaded.

I have already spoken in relation to the Motor Vehicles (First Registration) (Amendment) Bill on our philosophy concerning taxing motor vehicles. I accept what many Members say about the possible inequity of it. But nevertheless because motor vehicles take up our scarce road space it does seem to me perfectly reasonable to tax them.

The alternative to many of these piecemeal taxes is, as Members know, a broad-based consumption tax, which I have been advocating for many years. I have no doubt that Members would be disappointed if I did not take the opportunity to mention it this afternoon. If we do not have these other sources of taxation, then we will have to look to motorists, smokers, users of cosmetics and so on; otherwise where will the revenue come from?

Sir, I beg to move.

Question on the Second Reading of the Bill put and agreed to.

Bill read the Second time.

Bill committed to a Committee of the whole Council pursuant to Standing Order 43(1).

#### BANKING (AMENDMENT) BILL 1991

Resumption of debate on Second Reading which was moved on 17 April 1991

Question on the Second Reading of the Bill proposed, put and agreed to.

Bill read the Second time.

Bill committed to a Committee of the whole Council pursuant to Standing Order 43(1).

#### INLAND REVENUE (AMENDMENT) (NO. 3) BILL 1991

Resumption of debate on Second Reading which was moved on 17 April 1991

Question on the Second Reading of the Bill proposed, put and agreed to.

Bill read the Second time.

Bill committed to a Committee of the whole Council pursuant to Standing Order 43(1).

#### STAMP DUTY (AMENDMENT) BILL 1991

Resumption of debate on Second Reading which was moved on 17 April 1991

Question on the Second Reading of the Bill proposed, put and agreed to.

Bill read the Second time.

Bill committed to a Committee of the whole Council pursuant to Standing Order 43(1).



## CRIMINAL PROCEDURE (AMENDMENT) BILL 1990

Resumption of debate on Second Reading which was moved on 4 April 1990

Question on Second Reading proposed.

MR HUI: Sir, the Criminal Procedure (Amendment) Bill 1990 was introduced into the Legislative Council on 4 April 1990. In view of the implications of this Bill in regard to the compellability of spouse to give evidence in criminal proceedings, an ad hoc group was formed to study the Bill. The ad hoc group has held a total of five meetings and has invited submissions from the Hong Kong Bar Association, Law Society of Hong Kong, Federation of Women Lawyers, Hong Kong Magistrates' Association, Hong Kong Association of Business and Professional Women, and lecturers from the Faculty of Law of University of Hong Kong and Department of Business Studies of the Hong Kong Polytechnic. The ad hoc group has also made reference to relevant legislation in the states of Victoria and South Australia of Australia, the United Kingdom, Canada, New Zealand, Japan, Singapore, and the United States. Clarifications from the Administration on points of query and concern have also been sought.

I would like to take the opportunity to thank the above organizations for having responded to our invitation by sending in their views and opinions. I will not go into detail the views of individual organization but I wish to point out that such opinions have greatly assisted the deliberation of the Legislative Council ad hoc group.

The object of the Bill is to amend the law governing the competence and compellability of spouses to give evidence in criminal proceedings. The Bill implements recommendations made by the Law Reform Commission (LRC) in its Report on the Competence and Compellability of Spouses. The principal recommendations of the LRC are:

- (a) a spouse would be able to give evidence for the prosecution in all criminal proceedings against his or her spouse;
- (b) a spouse should be compellable to testify against his or her spouse in exceptional cases of assault on the spouse or their children under 16 years of age or sexual

offences against a child of the family under 16 years of age.

Members of the ad hoc group are in support of the spirit of the Bill as the ultimate objective is to ensure the availability of evidence in criminal proceedings. However, they have great concern about the compellability of a spouse to give evidence against his or her spouse, having regard to its implications on marital relationship which is built on trust and confidence. In the course of making reference to similar law in other countries, it is noted that in the states of Victoria and South Australia of Australia, the close relatives of an accused, including husband, wife, parent, child or de facto spouse could be exempted from giving evidence on behalf of the prosecution, if the judge is satisfied upon application made to him. The ad hoc group feels that such a provision would strike a better balance of competing community interests between protection of spouses and children from crimes inflicted upon them and interference as little as possible with marital relationship. As a result, the ad hoc group, having considered local situations, is of the view that a provision which would allow a spouse of an accused to seek exemption from testifying on behalf of the prosecution should be included in the Bill.

After discussion, the Administration has agreed to such proposal on the basis given in the South Australian and Victorian provision. In those two Australian states, the judge may excuse the witness from testifying after he has balanced the risks of damage to the marital relationship of the accused against the seriousness of the charge and the interests of justice. At this point, I wish to point out that the proposed provision will also cover cohabitee, that is, a person who is living with an accused as the husband or wife of the accused. This proposal is due to the general view that what is to be protected is not one particular, possibly religious view of marriage but a relationship of special closeness and mutual trust. I would also like to add that the majority of submissions received from the various organizations support the principle that cohabitees should be treated the same as legally married persons.

Sir, in the Legislative Council In-House meeting held in early May 1991, the majority of Members present supported the inclusion of the above exemption clause. However, some of my colleagues, such as the Honourable Mrs Nellie FONG, still have reservation on the compellability of a spouse to give evidence on behalf of the prosecution. I understand that the Honourable Mrs Nellie FONG will speak on this subject later.

Sir, with these remarks, I support the motion.

MRS FONG: Sir, the Criminal Procedure Bill is one that will have complex social and legal ramifications on the citizens of Hong Kong if it is passed into law.

I found myself having to disassociate myself from the passage of this Bill because of my grave concern over the effects that the passage of this Bill will have on the family unit in a primarily Chinese society.

The Bill contains three distinct and separate parts:

The first part is to compel a spouse to testify against the other spouse on behalf of a child who has been physically or sexually abused. This is a great tragedy and misfortune that unfortunately occurs in a society. A spouse is compelled to testify on behalf of the child, because the child's welfare is of the utmost importance. I fully support the proposal in this regard. However, I believe that it would be better dealt with in a separate Bill dealing with the welfare of abused children.

There are two other parts in the Bill that make the Bill unacceptable to me. They are detrimental to the family unit in general and to the female spouse in particular. Because of them I cannot support the Bill.

The second part of the Bill compels the spouse to testify against the other spouse on cases of physical abuse. Let me take the example of a wife being physically abused by her husband. To compel a wife to testify against her husband is tantamount to banishing the wife from her family and the social and economic security that it provides. With the strong family bonds that exist in Chinese society, forcing a wife by law to testify against her husband makes that spouse an outcast. The testifying wife will be penalized and unforgiven by her husband.

Our society does not provide a social welfare system that is comprehensive enough to support women that are separated from their families and the economic support that they provide. To compel a woman in our society to testify against her husband will not only destroy the marriage but will also destroy her security. After being compelled to testify, the woman's position will likely be worse rather than better. This is of course not true for a financially independent wife, but most of the women in our society still continue to be dependent on their husbands financially.

I am convinced that the wife must decide for herself whether or not to testify against her husband. The law should not compel her to do so. When we pass a law, we want to help society. I do not see how this Bill can achieve this.

I believe that if a wife is forced to testify against her husband against her will, then she will lie in court. Where does that get us? For contempt of court the wife can go to jail. If a wife chooses to testify on her own volition then she is making a decision for herself. That is best for her and she would have prepared for the impact that her action would have on the marriage, the children, the family and herself. And I have nothing against this. I applaud it. Wives should be permitted to seek protection from their husbands or, testify against them, but they should not be compelled by law to do so.

The third part of the Bill is what some of us in this Council may believe to be a compromise. It involves in my example exempting the wife from testifying based upon a trial judge's decision. The Bill permits the wife to ask a judge to exempt her from testifying. This supposed "safety value" that has been built into the Bill does not resolve the problem to which I am referred. We would expect the trial judge to be completely impartial, to forget all the statements made by the wife, to exempt her from testifying and to carry on the trial of the husband. Is this realistic? I continue to be of the opinion that a wife can better decide whether or not to testify than to have her future decided upon by the decision of a judge.

I am against the spirit of this Bill and the effect it will have on the stability of the family unit. The family unit is the basis of our society. A Chinese society is even more closely knitted than any other. We must think of these family relationships and how important they are to each of us. I have thought of how important they are to me and that is why I stand here to object to the Bill. Sir, I have circulated my view to all honourable unofficial colleagues and have asked those who supported my view to let me know and to oppose the Bill. A total of 15 Members indicated that they share my view and they are Mr CHEUNG Yan-lung, Miss Maria TAM, Mr HO Sai-chu, Mr NGAI Shiu-kit, Mr PANG Chun-hoi, Mr POON Chi-fai, Mr LAU Wang-fat, Mr Edward HO, Mr CHENG Tak-kin, Mr David CHEUNG, Mr CHOW Mei-tak, Mrs Peggy LAM, Mrs SO CHAU Yin-ping, Mr James TIEN and Mrs Elsie TU.

Sir, with these remarks, I oppose the motion.

MRS LAU: Sir, this Criminal Procedure (Amendment) Bill 1990 seeks to make a spouse not only competent but also compellable to give evidence against the other spouse in cases of physical or sexual abuse on a child and physical violence on the spouse.

This Bill has given me some difficulty initially as I have always respected a spouse's right to decide whether or not to testify against his or her spouse. However, I appreciate that there are certain types of cases where overriding considerations exist such as the need to protect the interests and welfare of children; these overriding considerations must be taken into account. I do not think that it is right for a wife who discovers an incestuous relationship between her husband and a child of the family and who makes a report of the same to the police should be allowed to subsequently change her mind, hide behind the existing "non-compellable" rules and not testify against her husband. If that were allowed, clearly the interests of the child is being sacrificed for whatever selfish reason his or her parent may have in deciding not to testify in the relevant court proceedings. Who then is there to protect the rights of a child? Nor do I think that acts of physical violence by one spouse on another should be condoned. A spouse who has been battered by his or her spouse and who decides that it is serious enough to be brought to the attention of the police should really carry his or her complaint through by testifying in court so that justice can be done to the wrongdoer. To allow the complaining spouse to back down at the last moment and hide under the "non-compellable" rules, which course frequently results in the case having to fold, not only means that police time is wasted but also frequently court time. I appreciate that there may be cases of hardship where testimony by one spouse against another may result in destruction of the marriage or other serious consequences affecting the family. The third part of the Bill adequately addresses the cases where such hardship exists. This part includes provision for applications to be made to the trial judge for exemption to testify against a spouse. This procedure exists in other jurisdictions and I understand that it has worked well. The Honourable Mrs Nellie FONG has expressed concern about the impartiality of trial judges. But in Hong Kong, we have always had judges who frequently act as judge and jury and this legal system has worked well for us without producing any difficulty.

Sir, I am aware that a Bill of this nature will not please everybody for no one really wishes to be made compellable but we must ensure that in this society justice is being done. We must also ensure that the interests and welfare of children, who are least able to protect themselves, are adequately protected by our laws.

Sir, I support the Bill.

ATTORNEY GENERAL: Sir, may I record my gratitude to Mr HUI Yin-fat and the ad hoc group for their careful consideration and helpful suggestions to this short, but important Bill.

When this Bill was last before this Council a year ago on 4 April 1990, I set out the background and purposes. I do not intend to repeat all that I said on that occasion. It seeks to improve and modernize the law governing the competence and compellability of spouses, while achieving a balance between the interests of justice, and the aim of interfering as little as possible with relations between married couples and the family. The Bill enhances the availability of testimony in cases of serious violence within the family, and in so doing follows other jurisdictions in addressing some of the problems relating to domestic violence.

The ad hoc group's study has resulted in an important amendment to allow spouses and cohabitees to be granted, in certain circumstances, an exemption by the court from testifying. As explained by Mr HUI in his speech, the ad hoc group studied similar provisions in other jurisdictions, and proposed an amendment which was appropriate to Hong Kong, but without diminishing the importance and intention of the Bill.

Mr HUI has already explained the rationale of the amendment, and in this connection, I would like to explain the legal effect of the inclusion of the exemption for cohabitees, for this may appear to widen unnecessarily the circumstances for granting a prospective witness an exemption from testifying. The amendment will not give cohabitees an automatic right to exemption from testifying in respect of all offences. They, unlike spouses, will still be competent and compellable to testify for the prosecution in respect of all offences. Only for those offences which involve serious violence within the family or relationship, will they be afforded the same right as spouses to seek an exemption. Before granting a cohabitee an exemption, the court will have to be satisfied that the relationship between the cohabitee and the defendant is akin to husband and wife.

The amendment does not detract from the original aims of the Law Reform Commission and intentions of the Bill. It sets out clearly the criteria that must be applied

by the court when deciding to give an exemption to a spouse or cohabitee.

Sir, I turn to address the concerns expressed so eloquently and so forcefully by Mrs Nellie FONG.

Her concerns are based on what is perceived to be the Bill's possible effects on the family. Let me assure Mrs FONG that the Law Reform Commission, in coming to its recommendations, and Government, in proposing the Bill, had the preservation of the family at the forefront of their considerations when attempting to amend the present law.

As for Mrs FONG's suggestion to put in a separate Bill that part relating to cases of violence to the children of the family, I could not, with respect, support such a proposal. The Bill deals comprehensively with the changes to the law relating to the competence and compellability of spouses in cases of domestic violence. Assaults on children are a part of domestic violence. It would not promote the intention or importance of the Bill to put that part dealing with child assaults in a separate Ordinance.

Mrs FONG believes that the effect of having the wife testify against her husband may destroy the financial security she receives from her husband. Society cannot hope that the violent husband will continue to support his wife at the cost of ignoring or tolerating violent domestic situations. These problems often continue with the wife being subjected to escalating physical and emotional harm, leading, in many cases, to tragic consequences.

In opposing the Bill, Mrs FONG suggests that if forced by law to testify, the wife will lie. This possibility does not outweigh the benefits to be achieved by this amendment.

Mrs FONG has described the proposed amendment as being a compromise. Let me make this central point: the amendment, as proposed by the ad hoc group, ensures that a balance is struck between the interests of the spouse and the interests of justice in the prosecution of cases of domestic violence.

The Bill recognizes the importance society places upon the family, while seeking to assist in deterring and punishing those who are destructive of the family. Under the current law, the harmful actions of these persons will remain immune from public

view and punishment. That situation should not be tolerated. On the whole, the Bill represents an important step in this area of the law and in responding to problems of domestic violence.

Sir, we have heard an indication from Mrs FONG that a considerable number of Members of this Council do not support it. It is a Bill that affects, as she has accurately said, family relationships. I have attempted this afternoon to describe the approach of the Administration in fashioning a law that would balance respect for the family unit and interest of justice. But on a social issue such as this it is right that I should make a submission that official Members should abstain.

Question on the Second Reading of the Bill put.

Voice votes taken.

HIS HONOUR THE PRESIDENT: It is not possible for me to decide between the voice votes. I will therefore call for a division. The Council will divide. The Clerk will call out one by one the names of Members who may say "Aye" if in favour of the motion on the Second Reading of the Bill or "No" if against it or may abstain from voting.

Mr Stephen CHEONG, Mrs Selina CHOW, Mr CHAN Ying-lun, Mrs Rita FAN, Mr CHUNG Pui-lam, Mr HUI Yin-fat, Mr Martin LEE, Mr SZETO Wah, Mr TAI Chin-wah, Dr Daniel TSE, Mrs Miriam LAU, Mr LAU Wah-sum, Dr C.H. LEONG and Miss LEUNG Wai-tung voted for the motion on the Second Reading of the Bill.

Mr CHEUNG Yan-lung, Mr HO Sai-chu, Mr NGAI Shiu-kit, Mr PANG Chun-hoi, Mr POON Chi-fai, Mr LAU Wong-fat, Mr Michael CHENG, Mr David CHEUNG, Mr Ronald CHOW, Mrs Nellie FONG, Mrs Peggy LAM, Mr Daniel LAM, Mr J D MCGREGOR, Mr Kingsley SIT, Mrs SO CHAU Yim-ping, Mr James TIEN and Mrs Elsie TU voted against the motion on the Second Reading of the Bill.

The Attorney General, the Financial Secretary, the Secretary for Home Affairs, the Secretary for Planning, Environment and Lands, the Secretary for Security, Mr TAM Yiu-chung, the Secretary for Economic Services, Mr Martin BARROW and the Secretary for Education and Manpower abstained.

The President announced that there were 14 votes for the motion, 17 votes against it and nine abstentions. He declared that the motion on the Second Reading of the



Bill was negatived.

Committee stage of Bills

Council went into Committee.

MOTOR VEHICLES (FIRST REGISTRATION TAX) (AMENDMENT) BILL 1991

Clauses 1 to 3 were agreed to.

FEES INCREASE (1991 BUDGET) BILL 1991

Clauses 1 to 6 and 8 were agreed to.

Clause 7

MR SIT (in Cantonese): Sir, I move that section 7 of the present Bill be amended as set out in the paper circulated to Members, namely, in section 7(a), 250 be deleted and substituted with 100; and in section 7(b), 1 000 be deleted and substituted with 400.

Sir, we all live in Hong Kong, and in a democratic society we know what the obligations, duties and rights of a citizen are. We know that a citizen has the right to protection afforded by the Government, and protection under the law. At the same time, a citizen should abide by the law. The foremost duty a citizen owes to the state under the law is, as the Chinese in the old days said, "to contribute to the state coffers", in other words, to pay tax. The Government, in order to safeguard revenue, would regard any one found to have evaded tax as committing a serious crime, which would lead to "arresting the offender and seizing his property". I believe, therefore, that the absolute majority of the citizens would not be unwilling to pay tax to the Hong Kong Government. They also expect that the Hong Kong Government will maintain effective rule, and taxation is an important means to get the where-with-all to maintain effective rule. However the question we discuss today is: how much would be enough? I agree that all people in Hong Kong would not wish to hold up the payment of tax and I trust Sir Piers JACOBS, the Financial Secretary, would also agree with me on this point. But what we are discussing today is the question of tax on transfer

of car ownership, mainly aimed at buyers of second-hand cars.

Let us have a look at what sort of people will buy second-hand cars. First, they are not the rich or the noble; second, buyers of second-hand cars are mainly those of the middle and lower income classes who have practical needs to use cars. Furthermore, what are the expenses to be incurred on buying second-hand cars? We all know that insurance premiums have been increased time and again due to serious car thefts. Some owners are not even accepted when they apply for insurance cover; they must pay licence fee; they must obtain third party insurance cover. The range of increases of such expenses is steep. If the second-hand car is more than five years old, it has to be examined, and examination of a car costs money. Therefore when a middle/lower income class person wants to own a car to meet his practical needs, he has in fact to pay a lot.

In respect of car transfer fees, in the past for a motor cycle it was \$50 and a private car \$250. After the Financial Secretary's motion, the transfer fee for a motor cycle is increased to \$250, and for a car from \$50 to \$1,000. The increases are really substantial. I also noted that in moving the motion, the Financial Secretary mentioned that there are no staff implications. In other words, the Government incurs no extra expense in collecting these fees. I feel that without extra expense, such huge increases by the Government are hardly acceptable. I have also discussed this question with motor car traders, mainly those engaged in buying and selling second-hand cars, and people in the middle/lower income classes. They expressed willingness to support the Government and pay the tax, but hoped that the Government would appropriately reduce it. They are prepared to shoulder an eight-fold increase, that is, to pay a transfer fee of \$400 for a car, and \$100 for a motor cycle. They hoped that the Government would appreciate the hardship of the lower income people. Of course, we need not worry that the rich would not be able to pay more, but we should show some concern to those less well-off people. I hope that the Financial Secretary and Honourable Members will accept my proposal. We agree to pay tax, but hope to have appropriate tax relief.

Thank you, Sir.

Proposed amendment

Clause 7

That clause 7 be amended --

(a) by deleting "250" and substituting "\$100".

(b) by deleting "1,000" and substituting "400".

Question on Mr Kingsley SIT's amendment proposed.

MR TIEN (in Cantonese): Sir, the Honourable Kingsley SIT has suggested that an eight-fold increase from \$50 to \$400 would be more reasonable and fairer to middle-to-lower income people buying motor cars. I just want to work out how much a second-hand car would cost. Take for instance a new car with a CIF price of \$60,000, as the Honourable Andrew WONG earlier quoted. As a matter of fact, cars in that price range are rare nowadays. After first registration tax the price tag will be in the range of one hundred thousand to several hundred thousand dollars. A reasonably roadworthy second-hand car would cost a few tens of thousand dollars, say, \$30,000 to \$50,000. In percentage terms, how much is the \$1,000 ownership transfer fee vis-a-vis the \$30,000 to \$50,000 cost of a second-hand car? For the ownership transfer fee to have any substantial impact on a second-hand car purchase, the car itself must be priced no higher than a few thousand dollars. But a second-hand car for only \$5,000 to \$10,000 is surely a thing of doubtful roadworthiness and safety, is it not?

A person from the middle-to-lower income group buying a car will have to pay, apart from the price of the car, a high insurance premium, as the Honourable Kingsley SIT has mentioned. Moreover car-parking charges are also substantial, with ordinary car-parking lots charging over \$1,000 in monthly rent. Even for a small car the fuel costs would be several hundred dollars per month. All these would add up to a rather considerable amount. Based on this observation, I think \$1,000 is not too much. We must not look at the proposed increase in percentage terms or in terms of a 20-fold increase.

For the above reasons, I oppose the Honourable Kingsley SIT's motion.

FINANCIAL SECRETARY: Sir, I agree with what Mr TIEN has said. In my Budget speech I proposed to impose a tax on the transfer of second-hand vehicles. Accordingly,

I have sought to tax-load the fee for transfer of motor cycles and tricycles to \$250 and for all other vehicles to \$1,000. I already explained in relation to a previous motion the difference or the significance of tax-loading the fee. In some ways it is meaningless to complain of this increase in terms of the percentage increase in the fee of \$50; the fee is not a fee anymore, it is a tax. The purpose of this tax is to raise new revenue of about \$140 million, and frankly that is a useful element in my Budget. Few people buy second-hand cars frequently; the tax, as Mr TIEN has suggested, will represent an insignificant amount in the ordinary person's shopping basket. It is an efficient minor tax measure which is cheap to collect and hard to evade.

Even putting aside my obvious disinclination to see the Budget unpicked stitch by stitch, it appears to me that to replace the original fee of \$50 with \$100 for motor cycles and tricycles, and \$400 for other vehicles is both unjustifiable as a fee and meaningless as a tax. If this proposal of Mr Kingsley SIT's amendment were agreed we would have certain problems in relation to the repayment of tax collected under the Revenue Protection Ordinance.

Sir, I shall oppose Mr Kingsley SIT's motion.

Question on Mr Kingsley SIT's amendment put and negatived.

Clause 7 was agreed to.

BANKING (AMENDMENT) BILL 1991

Clauses 1 and 2 were agreed to.

INLAND REVENUE (AMENDMENT) (NO. 3) BILL 1991

Clauses 1, 2 and 4 were agreed to.

Clause 3

MR MARTIN LEE: Sir, I move that clause 3(b) be amended as set out in the paper circulated to Members. My amendment seeks to increase the personal allowance from

the level of \$41,000 for single individuals and \$82,000 for married couples proposed in this Bill. I propose to increase the personal allowance to \$50,000 for individuals and \$100,000 for married couples.

Sir, such a raise in the personal allowance is necessary to make the income tax more equitable. At a time when inflation is cutting severely into the budgets of families in Hong Kong, this Council must take action to make the income tax more progressive and relieve the increasing tax burden that inflation has brought upon our working class and middle income families. I realize that we will be having a motion debate on inflation two weeks hence, yet by that time this Bill and the Budget as a whole would be set in concrete. If honourable Members of this Council are truly serious about inflation, then they should take the positive steps available to them now, by supporting my amendment.

In my Budget speech in March, I criticized the Government's Budget as being regressive on two grounds: first, the increase in indirect taxes and second, the shift in the income tax burden towards middle and lower income taxpayers. Though the amendment I am moving today focuses only on the income tax, it is important to remember the cumulative effect of both these regressive moves.

This cumulative effect was emphasized by the Hong Kong Bank shortly after the Budget debate in this Council. In its "Economic Report" for March 1991, the bank stresses: "Not only is the Government's concentration on indirect taxes likely to contribute to inflation, this and the adjustments to salaries tax bands and allowances that offset inflation only partially are likely to result in a redistribution of the tax burden from the richer to the poorer members of Hong Kong's population."

In the past five years, middle and lower income families in Hong Kong have been contributing an ever increasing share of the income tax burden. In those five years, the total number of taxpayers has more than doubled, and it has jumped by almost 50% just in the last two years. Likewise, the number of persons who pay the maximum, or standard, rate has increased by 59% in the last two years. The increase in the total number of taxpayers means that many working class families are now having to pay income taxes for the first time; and, the increase in the number of persons who pay the standard rate means that many middle income families are now having to pay at the same rate as those with the highest incomes.

The Government has done little to offset this disturbing and regressive trend. In the last two years, the cumulative rate of inflation has been 20% and salaries

have more or less kept pace with this rate. Yet, last year the Government did not raise the personal allowance at all and this year, it proposes to raise the allowance just 2.5% for married couples (from \$80,000 to \$82,000). In other words, in the past two years inflation has risen at a rate eight times higher than the increase in the personal allowance.

This disparity between the rate of inflation and the rate of increase in the personal allowance has brought about inequity for lower and middle income families. For example, a married couple with two children with a combined monthly income of \$7,500 would not have had to pay any income tax two years ago. Now, if their combined income has kept pace with inflation and risen to \$9,000, they will be forced into the tax net -- even though they have not experienced any real increase in family income. Or, take the case of a middle income couple with two children whose combined income two years ago was \$16,000 a month. Inflation alone would have pushed their salary to \$19,500 a month this year, with the result that their income tax burden would almost be doubled while enjoying no real increase in their income.

While the Government may point out that it has also made slight revisions to the tax band structure, the effect of these revisions does little to stop people from being pushed into a higher tax band solely on account of inflation. In fact, in spite of the token raise in personal allowance and the changes to the tax bands, the number of income taxpayers this year will increase by 200 000.

I should note, moreover, that inflation this year is running above the estimate of the Government. If salaries were again to keep pace with inflation, it would mean that an even greater number of lower income families would have to pay tax.

If this Council is to help redress the increasing inequity of the income tax structure, we must move to increase the personal allowance. The proposal contained in my amendment is a very modest one indeed, yet my amendment is an important step towards providing middle and lower income taxpayers with some relief from inflation. The acceptance of my amendment will mean that many working class families, who are already suffering from inflation and the sharp rise in indirect taxes, will not be brought onto the income tax rolls. In addition, the increased allowance will keep all taxpayers from being pushed up into higher-paying bands solely as a result of inflation.

Members will remember that in my Budget debate speech I advocated a raise in the

personal allowance to \$57,000. This is the level recommended by the United Democrats of Hong Kong and supported by many other groups including the Hong Kong Confederation of Trade Unions. I still believe that \$57,000 is a more appropriate figure, and the United Democrats of Hong Kong will fight hard for such a raise in the future.

As a figure of \$57,000 may not be attainable at this stage in this year's Budget process, however, I hope that all Members can join me and support the modest compromise figure of \$50,000. If it be thought necessary to compensate for revenue lost from this proposal this year, I would be willing to support any reasonable measure to raise revenue.

The final concern that some Members may have is of the precedent that adoption of my amendment might set. I should note that such a precedent has already been set earlier this afternoon, when this Council approved the amendment lowering the tobacco duty to 100%. In the case of the tobacco duty, Members believed it was important to lower it because of inflation. Exactly the same rationale applies to my amendment: it is necessary that we raise the personal allowance in order to compensate for inflation and for the pushing of taxpayers into higher tax bands caused by inflation.

Sir, my amendment is in accordance with Standing Order 23 which provides that this Council has the power to amend or veto revenue proposals of the Government. And this is in keeping with the Parliamentary practice in Great Britain and Congressional practice in the United States. The power of the purse -- that is, the power to veto or decrease revenue proposals of the Government -- is the most basic power of any legislature, and it was over this power that the British people fought their civil war in the 17th Century. Since then, the British Parliament has always enjoyed the power to control revenue. And it is only fitting that this Council should also have this power to control the level at which our public is to be taxed.

In sum, then, a raise now in the personal allowance to \$50,000 is a modest but important step towards relieving middle and lower income families from the twin burdens of inflation and a regressive system of taxation. I hope honourable Members will accept this compromise figure, and support my amendment.

Sir, I so move.

Proposed amendment

Clause 3(b)

That clause 3(b) be amended --

in item (1)(a) by deleting "\$34,000" and substituting "\$43,000".

in item (1)(c) by deleting "\$41,000" and substituting "\$50,000".

in item (2)(a) by deleting "\$68,000" and substituting "\$86,000".

in item (2)(c) by deleting "\$82,000" and substituting "\$100,000".

Question on Mr Martin LEE's amendment proposed.

MR HUI (in Cantonese): Sir, I fully support the Honourable Martin LEE's amended motion. During the debate on the Second Reading of the Appropriation Bill on 27 March, both Mr LEE and I advocated the need to increase the basic allowance. I pointed out clearly that with the basic allowance increasing to \$50,000 and the profit tax fixing at 18% -- a level acceptable to the commercial and industrial sectors, the Government would still be able to secure an annual income of \$200 million. I suggested the basic allowance be increased to \$50,000 and the married couple allowance to \$100,000. The figures I quoted at that time are highly worthy of note because they were given me by the Commissioner of Inland Revenue in his reply to my enquiries. Therefore, I am deeply sorry that the Financial Secretary still moved the motion by virtue of the proposals raised in his Budget speech.

In fact, since the publication of the Budget 1991, I have found my proposal to increase the basic allowance to \$50,000 very reasonable. I sometimes think \$50,000 is even not enough. The reasons are as follows:

(1) Besides taking the lead in increasing tax, the Government also approved the unreasonable fare rise applications of public transport companies. Notwithstanding considerable amount of profits, the public transport companies applied for fare rise at a percentage which was even higher than last year's inflation rate. As a result, inflation soared further making the low-income group bear more hardships. The inflation rate of March was 1% higher than that of February. This was only an immediate response. The effects of the fare rise in April are yet to be reflected. The living standard of the low-income group will certainly worsen.



(2) There is no question of Government's plans to require the public to pay for the social services. It is only a matter of time. To cut the growth of expenditure of government departments, the Administration is taking steps to expedite the privatization programme for public services. Will the future monitoring measures be better than the existing ones? Will more people benefit from the future charge exemption system? While these are still unknown to us, one thing is certain. The burden of the lower-middle income group is becoming heavier and heavier. I hope the Government can assure the public that while priority is given to the construction of the new airport, the aforesaid plans are not implemented at the expense of the quality of our social services.

(3) Wage earners, especially unskilled workers, are having less and less protection against their income. The scale of lay off is in proportion with the size of an organization. The import of labour has threatened the rice bowls of local workers. To them, changing jobs has now become very difficult, if not impossible. The transfer of work processes to Mainland China has already become a trend. In view of all these, we just cannot help worrying about our living. The Government not only fails to provide the public with suitable social security, but also sticks to the outdated taxation system of robbing the poor and benefitting the rich. Is there any social justice?

I must emphasize here that with the basic allowance increasing to \$50,000, the wage earners will only get back what they have lost in the previous years when the increases in the basic allowance were unable to catch up with the inflation rates. This is only their basic right, and not an extortion. Now, the Financial Secretary has proposed to increase the basic allowance to \$41,000 only. This is far short from the actual needs of the lower-middle income group. Here, I sincerely hope that the Government can show its understanding of the hardships of the lower-middle income group by raising the basic allowance. Only by this can their burden be eased.

Sir, with these remarks, I support Mr LEE's motion.

MR CHEONG: Sir, I thank you for allowing me to speak. I did not intend to speak but having heard Mr LEE's argument I have to say something about his amended motion.

In principle, I think it is very good of him to bring it to the attention of the Administration that insofar as inflation that has gone on for the past few years is

concerned, perhaps the Administration has not done enough to review the tax allowance that is to be afforded to, to quote him, "middle and lower income group families". So in spirit I do agree with him, but I do not agree with his amended motion today because I think he has missed one point and that particular point is very important. For any territory to be able to afford the services that it offers to the community, as the Financial Secretary has said, the money has got to come from somewhere.

In proposing the increase of the personal allowance from \$41,000 to \$50,000 -- I do not know exactly how much is involved because I have not yet been able to work it out -- I suspect that it is going to be quite a cut in the Government's revenue. And if that is the case, we are definitely heading for a massive deficit budget in the coming year. What will be the revenue raising proposals next year?

Unfortunately, we in Hong Kong are not having any natural resources whatever that we can dig into the ground for and sell in the world market and get money for. This is the predicament that one faces.

Another thing, Sir, I do not believe it is correct to tie inflation rates automatically to everything. As we all know, the CPI is made up of a number of components; we have heard this afternoon that cigarettes is one of them, and a 200% increase in cigarette duty pushes the CPI up by about one-point-odd points. Now not everybody in the community smokes cigarettes -- thank goodness for that -- but it is important to recognize that in the calculation of the CPI and the inflation rate it is no more than a gauge, no more than an index, a reference point for everybody to try to gauge the economic activity.

Another component that is terribly important is housing for example, Sir. The housing component constitutes close to one-third of the CPI, and in Hong Kong we are very lucky so far in that over 80% of our families either are home-owners or live in heavily subsidized public housing. So therefore whatever the housing market, cost increases will not have the same sort of effect on every family or every individual. So it is extremely dangerous, in my view, to tie a simple correlation between inflation and personal allowance, or even taxes for that particular matter. And for that particular reason, Sir, I venture to caution my colleagues to think very carefully before they vote on Mr LEE's motion.

I will oppose it. Thank you, Sir.

MR POON CHI-FAI (in Cantonese): Sir, despite the fact that the amended rate of tax allowances proposed by the Honourable Martin LEE Chu-ming is higher than that by the Financial Secretary, the allowance is still not adequate for the low income earners to overcome their financial straits. For example, an income earner with an annual salary of \$50,000, including a 12-month-pay and a two-month-bonus, receives a monthly salary of about \$3,846. Currently, the basic expenses of an ordinary individual amount to \$3,405 each month, including rental charges together with water and electricity charges (\$1,500), daily expenses for three meals (\$8 for breakfast, \$15 for lunch and \$20 for dinner, which will mean \$1,290 for a month's expenses on food), newspaper (a scant copy will cost \$75 a month) and also transport fees (\$3 for bus rides and \$15 for a round-trip cross-harbour MTR ticket, which will amount to \$540 a month). The remaining \$441 is unable to meet the monthly miscellaneous charges such as the expenses for haircut, necessary social functions, medical services, clothing, daily necessities like toothpaste, toothbrush, soap, toilet paper, stationery and so on, not to mention the duty of gratitude and filial respect for his parents in terms of offering them pocket money or inviting them to tea and also not to mention to keep some savings for future needs or to reserve some money for dating or marriage. One's living will be put in a predicament if he is required to shoulder the tax burden even with such a low income. Sir, since we have contributed a donation of \$230 million in relation to the Gulf war and have spent millions of dollars on the Vietnamese boat people who come here for the purpose of seeking a better life, why should we not increase the tax allowances to a reasonable level for the least well-off of the community so as to let them lead a stable and contented life and to strengthen their determination to stay here to work hard together for a better future for the territory.

Sir, taking into account the financial capabilities of the Government and the basic expenditure of the low income group, I am of the opinion that the personal and basic allowances should be raised to \$55,000 and \$48,000 respectively and the married couple's and their basic allowances be raised to \$110,000 and \$96,000 respectively. Only an individual with a monthly salary over \$4,230 will be liable to pay income tax (on the basis of 13-month-pay a year). The disparity of \$384 between a monthly income of \$4,230 and \$3,846 may be nominal to wealthy people or high income earners. However, such a difference in the salary is of great importance to low income families who can hardly make both ends meet and, at least, can relieve them from the fear that they may not be able to pay the income tax. Sir, since it is the first time that unofficial Members of the Legislative Council may move a motion to reduce the proposed

rate of revenue and expenditure in the Budget and because of the wrong message which has confused me, I did not have the knowledge of the procedure for moving an amendment until 13 May. I therefore wrote to you, Sir, on 14 May, requesting your approval for my above amendment. I deeply regret that my request is not granted and I cannot relieve the low income earners from financial distress.

Sir, in order to show my discontent that "the Administration is unable to appreciate the hardship that the lower income group suffer and that the Honourable Martin LEE Chu-ming has failed to introduce a reasonable level of tax allowances for middle and lower classes", I strongly oppose the tax allowance proposed by the Financial Secretary and will vote against the amendment motion of the Honourable Martin LEE Chu-ming.

MR SZETO (in Cantonese): Sir, the Government promised a few years ago to adjust personal allowances according to inflation rate. However, this promise has never been fulfilled. During the last two or three years, in particular last year, the inflation rate has risen sharply to as much as 13%. In the Budget this year, however, the Government's adjustment of personal allowances has only been token, just better than none. Not only does it lag far behind the growth of wages, but also far behind the inflation rate. This is tantamount to exploiting indirectly the large numbers of salary earners, lowering the quality of life of the middle and lower income groups, enlarging the gap between the rich and the poor, and causing widespread resentment of the population at large.

Based on the aggregate inflation rate over many years, personal allowance this year should be adjusted to \$57,000. At the time of the Budget debate, the United Democrats of Hong Kong had argued for this, but it was regrettably not accepted by the authorities. The Honourable Martin LEE moved today that the personal allowance be adjusted to \$50,000, which is a modest amendment. We have not given up the principle that personal allowances should be adjusted every year according to inflation rate. To propose a relatively modest amendment today is to hope that it would win more support in this Council, and to seek a small breakthrough of implementing this principle. From this it can be seen that despite the label of "radical democrats" some people choose to stick on us, the modest amendment proposed today shows that we are not radical, only that some people are too conservative! The Honourable Stephen CHEONG asked a moment ago what we should do if after the personal allowance had been raised a deficit appeared? He should in fact have raised the same

question when the Financial Secretary proposed to reduce the tax on tobacco a moment ago. He also mentioned that the Consumer Price Index was not accurate. I do not know if it is in fact accurate or not, but if it is really inaccurate, then the inflation rate we are talking today is simply off the mark.

MR CHEONG: Sir, I wish to clarify one point for the benefit of the Honourable SEZTO Wah. I did not say that.....

HIS HONOUR THE CHAIRMAN: Excuse me, Mr CHEONG. Mr SZETO, are you prepared to allow Mr CHEONG to clarify?

MR CHEONG: I did not say or interpret or even represent that the CPI was wrong.

HIS HONOUR THE CHAIRMAN: Thank you, Mr CHEONG. Please continue, Mr SZETO.

MR SZETO: The Honourable POON Chi-fai raised the point just now that he considered the personal allowance of \$50,000 was not enough and therefore he was opposed to it. Therefore I should think the label of "radical" should fit him better!

Sir, with these remarks, I support the amendment proposed by the Honourable Martin LEE.

MR TAM (in Cantonese): Sir, in the Budget debate this year, I requested the Government to raise the personal allowance to about \$58,000, and to adjust allowances for dependent parents and children according to the inflation rate. That was basically the plea of the working class. However, the Government turned a deaf ear to this request.

In reality, for more than 10 years, the increase of Hong Kong's personal tax allowance lagged far behind inflation, resulting in more and more low income people being caught in the tax net. This has gone against the principle of salaries tax allowance to be set at a level to enable one to meet the basic living expenditure

of a family. This has arisen from the Government's disregard of the interests of the lower classes, and was also due to a lack of criteria for calculation when setting the allowance.

I think a basic principle of setting the allowance is that the allowance, that is, the basic level of living expenditure, should not suffer a real fall due to inflation. Therefore the allowance should be adjusted every year according to inflation, which is the most fundamental criteria for calculation.

The second criteria for calculating allowance is that the allowance should reflect the level of economic development. Economic development raises the standard of living, and the basic living expenditure would rise with it. Apart from the fact that the allowance should be adjusted according to inflation, it should also be adjusted appropriately accordingly to the growth of real wages. The allowance of \$58,000 which I proposed during the Budget debate was arrived at with reference to these two criteria, in order to make up for the deficiency in the Government's adjustment of the allowance in more than 10 years in the past.

Therefore I request the Government, apart from raising the personal allowance, also to clearly stipulate the criteria for calculating the allowance. These criteria must ensure that the allowance is the income level necessary to maintain the basic living expenditure of a family, and capable of reflecting the level of economic development.

Sir, although the amendment moved by the Honourable Martin LEE does not meet the request I made in the Budget debate of raising the allowance to \$58,000, yet, compared with the motion of the Financial Secretary, it is no doubt an important first step forward. I therefore support the amendment of the Honourable Martin LEE.

MR CHOW (in Cantonese): Sir, for lack of a progressive scale of taxation, Hong Kong's tax system is quite unfair to members of the "sandwich class", resulting in direct taxation failing to achieve its full effects. During the debate on the Budget proposals, I moved for an overall review of the tax system. Unfortunately, the Administration did not make any positive commitment about the matter. True, a review of the tax system cannot be accomplished overnight. Still, because life is becoming increasingly difficult for the lower income groups who have to cope with the ever worsening problem of inflation, raising personal allowances for single people and

married couples will be the simplest way of relieving the impact of inflation on the general public. The truth is that raising the personal allowance to \$50,000 will lighten the burden for only a portion of the people in the lower income groups. Actually, government data show that the average salary of all classes of employees from supervisors downwards increased by only 12.6% from September 1989 to September 1990. If one takes away 12.9%, which is equal to the rise in the Consumer Price Index, there has been no significant real increase in the salaries of employees. We are not even taking into account here the spiral driven by the ever rising costs of public transport. This is why 1991 may be called the hardest year for the lower income people. If the Government still refuses to make up its mind to narrow the gap between the rich and the poor and raise the amount of personal allowances for single people and married couples, how are the lower income groups going to cope in an environment with extremely scarce social security? Is it the Government's intention to have more industrial disputes as a way of lessening the impact of salaries tax on them?

Sir, while huge infrastructure projects are important, I have stated time and again that the interests of the citizens must never be ignored. Although a higher amount of personal allowance will probably lead to a decrease in government revenue yet, if one weighs the pros and cons, it will undoubtedly help to reassure the people. Besides, raising the corporate profits tax rate by one percentage point can easily make up for this loss of revenue. A change of the Government's usual policy and its determination to fight inflation as a means of relieving inflationary pressure on the public will be of immense help to effective governance during the period of transition.

Sir, with these remarks, I support Mr Martin LEE's motion for amendment.

MR LAU WAH-SUM: Sir, I think when one looks at the salary tax one should look at the whole package, that is to say, one should look at the personal allowance, the tax rate, and the staging of the tax rate reaching the standard rate. If one singles out the personal allowance and relates it to inflation then one has not looked at the whole package. The Honourable Martin LEE mentioned that in some years we had no increase in the personal allowance. I recall that in those years we had actually a reduction in the tax rate. So, in my opinion, if one wants to adjust to the right level of salaried people coming into the tax net one should look at the whole package, not to single out the personal allowance.

In fact, when we talk about inflation, increasing the personal allowance would not cut down inflation; in theory it should increase inflation because there would be more disposable income coming into the market.

Sir, with these remarks, I do not support the amendment proposed by Mr Martin LEE.

MR MCGREGOR: Sir, I am advised that I can speak for the Honourable C.H. LEONG and the Honourable CHAN Ying-lun in addressing the motion by the Honourable Martin LEE. I can also say that the position I will set out represents the carefully considered view of the Hong Kong Democratic Foundation.

I believe that the Financial Secretary has been a little unreasonable when increasing the personal allowances referred to in the Bill. These increases should, in our view, have kept pace with inflation. That would have meant a 10% increase; the actual increases were in some cases only half of this. Therefore the effect will be to bring new taxpayers into the tax net -- these will be at the lower-earning level.

The Honourable Martin LEE's amendments go beyond the inflation level for last year. We find it difficult to accept this suggestion also, as it will reduce the number of direct taxpayers for no very good reason. This in turn will absolutely ensure, if this policy is followed through the years, that we shall have a sales tax very quickly.

I have to say, therefore, that I support the spirit of Mr LEE's amendments but not the scale. I will therefore vote against the Government's proposal and also against Mr LEE's amendment. I believe the Honourable CHAN Ying-lun and the Honourable C.H. LEONG may wish to agree with me. Thank you, Sir.

MR TIEN (in Cantonese): Sir, in this year's Budget, expenditure will rise to \$70 billion, up \$10 billion from last year's \$60 billion. From where is the Government to look for revenue resources to cover the \$10 billion in extra expenditure? The answer is, of course, tax revenue. Last year's statistics revealed that of Hong Kong's 2.7 million income earners only 1.2 million need pay salaries tax. If the motion moved by the Honourable Martin LEE to raise the personal allowance from \$41,000 to \$50,000 is carried, many people will not have to pay tax and the number of taxpayers will be getting smaller and smaller. I am of the view that in Hong Kong's present



environment the tax net should be extensively widened. However, having regard to the opposition by many of my honourable colleagues to a sales tax, the Government is having no alternative but to increase direct taxes. If the number of taxpayers should fall from the present 1.2 million, those who remain in the tax net will have to pay more or companies will have to pay more in profits tax. This I disagree with.

Sir, for the above reasons, I oppose the Honourable Martin LEE's motion to amend.

MR MICHAEL CHENG (in Cantonese): Sir, first and foremost I would like to point out that the Government this time fails to adjust the personal tax allowances according to the inflation rate. Such failure will lead to more low-income earners falling into the tax net.

The second point I wish to make is that the proposed hefty increases in various indirect taxes this year will fuel inflation and add to the daily expenditures of the people of Hong Kong, such as transport, water and electricity charges, resulting in a heavy burden on them and a leaner way of life.

Based on the above two considerations, I suggest that personal tax allowances should be further raised to a level even higher than that proposed by the Honourable Martin LEE. My proposed personal allowances are: \$34,000 to be raised to \$48,000; \$68,000 to be raised to \$96,000 for married couples. In other words, taking into account the existing concessions, the personal allowance for an unmarried person should be raised from \$41,000 to \$55,000 and for a married couple from \$82,000 to \$110,000.

Sir, I oppose this Bill and also the motion moved by the Honourable Martin LEE because he has apparently failed to fully understand the needs of people from the lower income groups.

FINANCIAL SECRETARY: Sir, Mr LEE's amendment, if passed, will be very generous indeed. His proposed increases in the basic and married persons' allowances represent some 28% and 25% respectively over the original rate of allowance, well in excess of the rate of growth of the Consumer Price Index (A) for 1990 and 1991. For taxpayers in the middle income group with a net chargeable income of \$81,000 who would pay tax at \$10,850, they would result in a saving of 25%.

Increases in personal allowances are not directly linked with the inflation rate in any one year. Nevertheless in recent years the Administration has, when public finances have permitted, reviewed and adjusted upwards the level of allowances to maintain over time the real values of these allowances relative to inflation.

The increases in personal allowances this year is only one of two personal concessions in the Budget. The other is the adjustment in the marginal tax rate. In 1991-92 with a forecast deficit prior to the implementation of new revenue raising measures, it would have been inappropriate to introduce across the board concessions by significantly increasing the level of personal allowances. On the other hand, to alleviate any hardship to the least well-off in the community, the Administration nevertheless proposed a package of concessions designed principally to benefit lower income earners. Thirty thousand taxpayers will no longer pay tax. For a further 300 000 taxpayers in the lower income groups, the overall effect of this package is equivalent to an increase in personal allowances of at least 10%. Accordingly, for this group it can be said that even this year the package of concessions will produce tax reduction of not less than an increase in allowances linked to the rate of inflation.

Sir, I think that Members must have regard to the fact that each year we look at the allowances as well as the various measures; I think Members must look at the position over a period of years. Last year, for example, the Government abolished the clawback. This meant that the middle income taxpayers got the benefit of some 22% increases in allowances.

The additional cost to government revenue of Mr LEE's generosity would be \$1 billion in 1991-92 and \$1.4 billion in a full year. This, together with the reductions in tobacco duty, would push us into a deficit budget.

Now many Members this afternoon, in relation to other measures, have spoken with some feeling about inflation. Strategically, one of the worst things we could do would be to bring down a deficit budget. A classic weapon against inflation is to run a budget surplus.

In defence of my original proposal I wish to make clear that my proposed changes to allowances, taken together with the restructuring of the marginal rate bands, would result, as I have said, for some 300 000 lower income taxpayers in a reduction in

tax liability by at least 10% against a Consumer Price Index (A) growth for 1990 of 9.8%.

Sir, I shall oppose the motion.

Question on Mr Martin LEE's amendment put and negatived.

Clause 3 was agreed to.

STAMP DUTY (AMENDMENT) BILL 1991

Clauses 1 to 8 were agreed to.

Council then resumed.

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

MOTOR VEHICLES (FIRST REGISTRATION TAX) (AMENDMENT) BILL 1991

FEEES INCREASE (1991 BUDGET) BILL 1991

BANKING (AMENDMENT) BILL 1991

INLAND REVENUE (AMENDMENT) (No. 3) BILL 1991 and the

STAMP DUTY (AMENDMENT) BILL 1991

had passed through Committee without amendment. He moved the Third Reading of the Bills.

Question on the Third Reading of the Bills proposed, put and agreed to.

Bills read the Third time and passed.

Member's motion

MRS NELLIE FONG moved the following motion:

"That in relation to the Buildings (Administration) (Amendment) Regulations 1991, published as Legal Notice No. 120 of 1991 and laid on the table of the Legislative Council on 17 April 1991, the period referred to in section 34(2) of the Interpretation and General Clauses Ordinance for amending subsidiary legislation be extended under section 34(4) of that Ordinance until 5 June 1991."

MRS FONG: Sir, I move the motion standing in my name on the Order Paper.

The Legislative Council ad hoc group set up to study the Building (Administration) (Amendment) Regulations 1991 has received a number of representations from professional bodies and the construction industry. The concerned groups have expressed very serious concern over the method of collection of the fees for processing building plans and have submitted counter-proposals on the fees to be charged. To allow time for the ad hoc group to consider these proposals in depth, it is necessary to extend the period allowed for making amendment to the regulations by 21 days to 5 June 1991.

Sir, I beg to move.

Question on the motion proposed, put and agreed to.

Adjournment and next sitting

HIS HONOUR THE PRESIDENT: In accordance with Standing Orders I now adjourn the Council until 2.30 pm on Wednesday, 22 May 1991.

Adjourned accordingly at fourteen minutes past Eight o' clock.

Note: The short titles of the Bills/motions listed in the Hansard, with the

exception of the Administration of Justice (Felonies and Misdemeanours) Bill 1991 and the Pensions (Special Provisions) (Vocational Training Council) Bill 1991, have been translated into Chinese for information and guidance only; they do not have authoritative effect in Chinese.